

United States
Court of Appeals
for the Ninth Circuit

ERICK I. RICHMAN, Appellant,
vs.

TIDWELL, ROY E. HALLBERG, as Receiver of all the real and personal property constituting the former Richman Trust, and JOHN WHYTE, attorney for Receiver,
Appellees.

TIDWELL, Appellant,
vs.

ERICK I. RICHMAN, ROY E. HALLBERG, as Receiver of all the real and personal property constituting the former Richman Trust, and JOHN WHYTE, attorney for Receiver,
Appellees.

Transcript of Record

In Three Volumes
VOLUME II.

(Pages 317 to 648, inclusive.)

from the United States District Court for the Southern
District of California, Central Division

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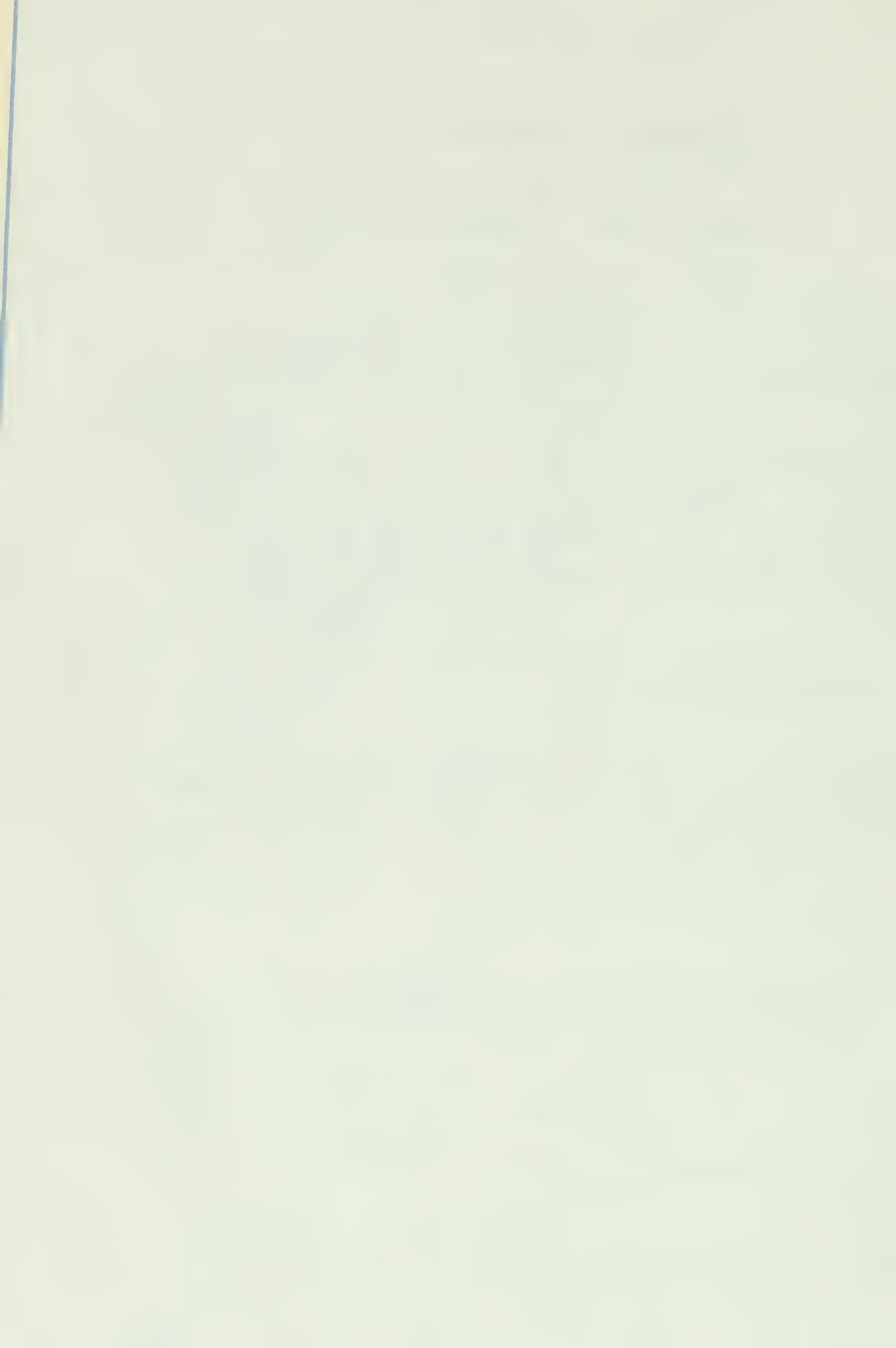
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ony of Jefferson A. Mann.)

Cross Examination

By Mr. Enright): Mr. Mann, you took into
ation the duration of the term, that it was
ecember 1, 1953, to February 28, 1954, that
months? A. I did, sir.

and in considering those three months you
o consideration the expense that the person
e put to who would be rendering these serv-
ch as assigning men, is that right?

Yes, sir.

and setting up bookkeeping, is that right,
ense that would be incurred?

That is correct.

Assuming there was no expense on the part
Receiver, other than his own personal time,
that affect your opinion as to the 5 percent?
My opinion of the 5 percent is based on the
I know them in this case, and in this par-
case my opinion of the 5 percent contem-
he payment by the trust [84] of the book-
expense.

What wasn't included in your hypothetical
nt, was it? A. I am sorry, sir?

What wasn't included in the hypothetical
nt submitted to you, that the trust would pay
xkeeping expenses, was it?

Whyte: Yes, it was, Mr. Enright.

Witness: Yes.

(Testimony of Jefferson A. Mann.)
with the operations of the former Richman
who was paid a monthly salary from the fo
trust assets.”

Q. (By Mr. Enright): Did you take into
sideration that the Receiver was paid a full
salary, while being employed, by the Coun
Orange, for his full work week commencing
day morning at 9:00 and ending at 5:00 o
each day, and ending at 5:00 o'clock on Frid
each week, during the period commencing D
ber 7, 1953, the week after he was appointed, t
including——

Mr. Whyte: That is objected to as assu
facts not in evidence.

Q. (By Mr. Enright): ——through and
cluding February 28, 1954? Did you take into
sideration any such facts as [85] that?

The Court: The objection should be placed
the question has been completely put. I suppos
were afraid the witness would come right out
an answer, before you got a chance to object. I
think he would. He seems to be a deliberate so
a witness. But I think the question is proper
course, it assumes. It is not a hypothetical quest

It is cross examination upon the hypoth
question you put. It assumes something as to v
I suppose Mr. Enright is going to propose
evidence. If he doesn't propose some evidence
will be in a position of having asked a question

mony of Jefferson A. Mann.)

s of employment by the County of Orange, was as extensive as this question indicates, having scanned the deposition, in order to be prepared for this hearing, I recall that Mr. [redacted] testified that he did hold a position with the County of Orange and it might be by the time we have the entire picture before us, that what Mr. [redacted] suggests in his question will be found to be correct. I don't know. The objection is overruled.

Enright: Would you read the question?

The question was read.)

Witness: My answer to that is no, I did not know the reason I had no knowledge of it. And in my [86] explanation of my statement, it would not have made any difference in my opinion of [redacted] because he rendered the services required of him in spite of the fact he was employed in other positions.

(By Mr. Enright): Pardon me, sir. Go ahead if you wish to go on. You are non-responsive in answering my question. Go ahead.

[redacted] I thought I had answered. I had no knowledge of it, and I was explaining my answer, Mr. Enright.

Court: You are entitled to give that explanation. If you don't, in response to this question, Mr. Enright will probably ask some more, or Mr. [redacted] will. So we are going to have the whole picture.

(Testimony of Jefferson A. Mann.)

he performed the services, other than because one has told you and stated this hypothetical question to you?

A. I believe as an expert witness I am entitled to make certain assumptions on facts submitted to me.

The Court: You may assume that everything stated in this hypothetical question is true and can't add more facts to it.

The Witness: And basing my answer and explanation on the facts as contained in that statement, and as his Honor just stated, those facts are true, for that reason it would [87] not have any difference.

Q. (By Mr. Enright): Now, if those facts are not true, then you would have a different opinion, wouldn't you?

A. Naturally.

The Court: Since you have worked in this business, tell me, is it possible to do everything that is required in this hypothetical question asked you and hold some other employment at the same time or is this a full time job?

The Witness: Your Honor, in answering that question, if I may in this way, he was represented by his wife, who was an unpaid employee and transacted a portion of the business.

He further was responsible for the functions assigned to Bower & Co. for illustration of the

ony of Jefferson A. Mann.)

function on Saturdays, Sundays. He can
in the evenings.

would say, in answer to your Honor's ques-
at it is entirely possible for a man to do
en though employed in another occupation.

Court: Well, tell me, is your acquaintance
s type of business such that you would know
it is customary for them to do so?

Witness: Your Honor, the customary oper-
s for one man to handle many properties,
the representatives of Rowan & Co. They
periodic trips to the [88] properties. The resi-
sonnel in the property, such as the resident
r or whoever is there, has direct charge sub-
the functions to the head of the apartment
head of—such as Mr. Hallberg was doing. It
customary for the individual himself in his
to do most of these functions. That is gen-
delegated to some subordinate.

By Mr. Enright): You were speaking of
y management, were you not, sir, and not a
appointed by the court——

I am speaking of property management, yes,

even that was your question, wasn't it?

Court: Yes. I understand that this man is
an expert on property management and not
expert on receiverships.

(Testimony of Jefferson A. Mann.)

cause although we must apply the receivership an intelligent application of that rule call for knowledge of what is done in private business well.

Mr. Enright: Very well. May I ask a further question?

The Court: Surely.

Q. (By Mr. Enright): Did you take into consideration that the only experience this man had since, I will say, [89] January 1, 1933, until the time of his appointment in the management of apartment house properties, and then only one apartment house having 16 or 14 units, and that only that he managed that for a period of December 20, 1949, to November 29, 1950, that is, approximately 11-month period, operating one apartment house of 14 units, did you take that into consideration, that that was the experience of this man so far as apartment houses was concerned?

A. The experiences set forth in this question related to me, was that he managed some 50 or 40 to 50 buildings of different types, and that he had also, while living in southern California, and actively engaged in the management of apartment houses and other residential property in this area. I took that into account.

Q. Did you take into account that the apartment house he operated or owned or

ony of Jefferson A. Mann.)

, to November 29, 1953? Did you take that
ount?

No, I did not know that fact.

Court: What difference does it make in
imate answer, assuming that fact, as stated
Enright, to be a fact?

Witness: It would have made no difference
answer, your Honor. [90]

By Mr. Enright): Am I correct then, that
having any experience wouldn't have made
ference, in your opinion, as to the value of
ices being 5 percent?

No, that is not my answer.

If his only experience were 11 months in one
ent house, wouldn't that have a bearing on
inion, as to the value of his services?

That is not my understanding of it. I un-
d from the information supplied to me, upon
predicated my answer, that he had man-
to 50 buildings. The period of whether or
had managed one building since would not
material effect, because he would be well
from previous experience, where he had
d a large group of buildings. You just don't
overnight your experiences under that type
ation.

Court: Counsel is making the point here
t was very remote in time.

(Testimony of Jefferson A. Mann.)

The Witness: He is well versed in the mechanics of operation, yes, your Honor.

Q. (By Mr. Enright): And you would say that the bond required for the operation of the Los Angeles Harbor during the year 1931 would be experience qualifying a person in December 1953 for [91] the operation of apartment houses in Los Angeles?

A. I would say that management of apartment houses in 1931 was a far more difficult period than the period after the famous 1929 market crash when apartment houses were very hard to operate. They were very difficult to obtain funds to operate. It was particularly difficult to even get tenants for them.

I would say that his experience at that time would stand him in good stead today.

Mr. Enright: No further questions.

Redirect Examination

Q. (By Mr. Whyte): What special significance, if any, did you attach to the fact, assumed in the hypothetical question to you, that the Receiver posted a bond of \$75,000.00 in this proceeding to insure the faithful discharge of his duties as Receiver?

A. To obtain \$75,000.00 bond the man would have to be of financial stability, good moral character and good reputation, to be able to obtain a bond of

ony of Jefferson A. Mann.)

which a Receiver has for the acts of his
and subordinates?

did, very definitely. He is responsible, he is
to all actions of those people under him.
ot only financially but he is morally respon-
d that is [92] the reason for the \$75,000.00

Whyte: I have no further questions.

Court: Neither have I.

Wright: I would like to ask Mr. Hallberg
estions this afternoon. It may well be I can
using his employer coming in from Orange
I have him under subpoena at this time.

Court: I intended to sit about until 20 min-
5:00. I have appointments with counsel in
matter that wanted to come after court,
ld them to be here at a quarter of 5:00.

Whyte: May Mr. Mann be excused?

Court: May this witness be excused?

Wright: So far as I am concerned.

Court: You are excused.

Witness: Thank you, sir.

Witness excused.)

ROY E. HALLBERG

s a witness in his own behalf, having been
sly duly sworn, resumed the stand and tes-
rther as follows:

(Testimony of Roy E. Hallberg.)

now employed by the County of Orange, are not? [93] A. That is correct.

Q. And you made an application to the County of Orange before December 1st, at least in the event of taking a civil service examination, did you not?

A. That is correct. That is not a civil service examination. That is a county examination.

Q. Some form of county examination. You went to work for the County of Orange on December 7, 1953? A. That is correct.

Q. Your hours of employment are from 8:00 o'clock in the morning to 5:00 p.m. each day, Monday through Friday?

Mr. Whyte: Your Honor, I am going to register an objection to this line of testimony on the ground that it is immaterial and irrelevant.

The question before the court is what is the reasonable value of the services which the Receiver performed. What he may have done apart from those services has nothing to do with the determination of compensation that should be awarded to him for what he has done, without controversy.

The Court: But it appears to be controversial. Our knowing what other demands he had upon his time, during the time he was acting as the receiver, I think would be very valuable to the court. The objection is overruled.

Mr. Whyte: Very well, your Honor.

Mr. Enright: Please read the question [94]

mony of Roy E. Hallberg.)

(By Mr. Enright): Is Mr. Louis Byrum
immediate superior? A. He is.

Did he direct you to report for work each
day of the week, Monday through Friday,
you commenced to work on or about Decem-
ber 1953?

No, the only thing that I have to do is put
in eight hours required.

My question was, did he direct you to put in
eight hours' working time between the hours of 8:00
a.m. and 5:00 p.m. A. No.

You did commence work on December 7,
A. December 7th, correct.

You were required to put in eight hours'
working time for the County of Orange each work day,
Monday through Friday?

With one exception.

February 22nd? Washington's Birthday?
No.

Christmas? A. No.

What other exception?

The exception was when I went with the
others [95] they were informed I had prior com-
mitments, which you can verify, that might take
time.

Court: What did they tell you about it?

Witness: Sir?

Court: What did they say about it, when

(Testimony of Roy E. Hallberg.)

Q. (By Mr. Enright): You were required, though, to render eight hours' services to the County of Orange, were you not, each day?

A. With the exception of those commitments which were entered into prior to December 7,

Q. And you were paid a monthly salary for those services, were you? A. That is correct.

Q. The monthly salary was \$355.00 per month?

A. Correct.

Q. And you were paid that salary for the remainder of December, 1953?

A. Not for the month of December; just for the remainder of the month.

Q. That is, the remainder of the month of December, excluding the first week?

A. That is right.

Q. At the rate of \$355.00 a month? [96]

A. Yes.

Q. You were paid \$355.00 for the month of January? A. Correct.

Q. And the same for the month of February?

A. Yes.

Q. Same for the month of March, 1954?

A. Yes.

The Court: Would it be fair to say that the County of Orange got on an average of eight hours a day out of you during the time counsel has been required into?

The Witness: Yes.

mony of Roy E. Hallberg.)

testimony in this matter, at which time you testified concerning your duties for the County of _____?

Will you state that question again?

Enright: Please read the question.

The question was read.)

Witness: Yes.

By Mr. Enright): Directing your attention to your deposition, page 13, line 6:—

Whyte: Perhaps you had better show the witness the deposition, if you are attempting to lay a foundation for impeachment, Mr. Enright.

Enright: Yes, I will. To page 15, line 12.

Whyte: May I show my copy to the witness?

Court: Yes, he is entitled to see it.

Enright: May I have the original deposition because I am only working from a copy. I have never seen the original yet.

Whyte: What are the pages and lines again?

Enright: Page 13, line 6, to page 15, line 12.

Do you inquire have there been any changes on those pages?

Whyte: Yes, there have been a few changes.

Enright: Is that the scrubbing-up of the _____? Is that the only thing that was referred to this morning? I guess that is all.

By Mr. Enright): You have that before you?

Whyte: Let's get the page and line again.

(Testimony of Roy E. Hallberg.)

The Court: May the original deposition be brought in from my chambers? I will put it here and look at it, Mr. Enright. I don't recall whether this, at this particular place there are changes or not.

Mr. Enright: I think there was a change in "huh", to "Yes."

Mr. Whyte: I still don't have the concluding page and line to which you refer. [98]

Mr. Enright: Please read it to him.

(The record was read.)

Mr. Whyte: Page 15, line 13.

The Court: At the places you have just mentioned, Mr. Enright, I do not see any changes in the original.

Put the original before the witness.

Mr. Enright: I saw the change, I think, on Mr. Whyte's copy. That is what I was basing my testimony on.

The Court: There are changes on those lines but I understand at the lines you are referring to there are no changes, at the immediate lines.

Why not come up and take a look at the deposition, so everyone will know what we are doing?

Q. (By Mr. Enright): At that time did you testify as follows, concerning your duties at the County of Orange, commencing on page 13, line 6:-
I will read—

ony of Roy E. Hallberg.)

Well, let's see, I have done some appraisal
and I managed our own building.

For whom did you do appraisal work, or
jobs, since October of '53?

County of Orange.

County of Orange, and would you explain
what you mean by 'special assignment' or
special jobs'?

Well, those are usually somebody needed a
help on something. It was more or less jobs
you see, I could—until just a few years ago,
but a year ago, I wasn't capable of doing
sustained work.

Now—

I think that will hold it for the time being.

Well, I would like to know. You see, that's
'53. You were appointed receiver on De-
cember 1st, '53. A. Yes.

Were you doing special jobs and assignments
from your appointment? A. Yes.

Hallberg: Took a trip or two for Binkley's,
didn't you?

Witness: Well, I took that prior to De-
cember 1953. That's some time ago. Yes, I have
been doing some since that time.

Enright: Q For whom?

For the county.

County of Orange? A. Yes. [100]

(Testimony of Roy E. Hallberg.)

Q. Appraisal Department of the County of Orange? A. That's right.

Q. Is that under the Board of Supervisors—or——

A. Well, it's under the County Appraiser.

Q. I beg pardon?

A. Under the County Appraiser.

Q. Would that be the County Assessor's Office?

A. County Assessor's Office, that's right.

Q. On how many occasions did you do appraisal work for the County Appraiser's Office?

A. Quite a few.

Q. In number how many?

A. Oh, I—I couldn't tell you exactly. I haven't counted them.

Q. You have a particular rate of compensation that you receive from the County of Orange?

A. Yes.

Q. What is the rate of compensation?

A. Well, it's about \$350 a month.

Q. What are the terms as to time that you are required to expend in rendering services to the [101] County of Orange?

A. Well, it's more or less on my own.

Q. Well——

Mrs. Hallberg: You haven't done that since October.

Q. (By Mr. Enright): You have done no work for the County of Orange since October, 1953, is that correct?

ony of Roy E. Hallberg.)

nty, yes; I have been working there at the
since that time.

On how many different occasions?

Right straight through.

Hallberg: No, not since October of '53."
ou so testify at that time, that is, April 22,

Court: What he wants to know, Mr. Hall-
did the reporter get it down correct? Are
e questions asked and the answers you an-
at that time?

Witness: I question some of the phrase-
ere.

Court: That is not what we can go into
ne question is, is that a correct report of
as said at the time that it is reported?

Witness: I believe it is.

By Mr. Enright): Now, directing your at-
to your deposition again, on April 22, 1954,
34, line 15, [102] to page 38, line 18.

I ask you to review those pages and state
e or not you did so testify at that time.

Now, what is your first question?

Enright: Read the question, please, Miss
er.

The question was read.)

The witness complies.)

(Testimony of Roy E. Hallberg.)

Q. (By Mr. Enright): Did you so testify that time? A. I did.

Q. At that time you testified, and may I the original, not, as you have made some changes commencing at page 34, line 15:

“Q. Now, you are presently employed, are you by the County of Orange? A. That’s right.”

Q. At what salary?

A. I think you have that.

Q. \$350 a month? A. 300——

Q. You are presently employed?

A. That’s right.

Q. When did you commence working for [103] County of Orange at 350?

Mr. Whyte: Objected to as having already asked and answered.

Mr. Enright: He has not stated the date or month he commenced working. He says October, November or December. Now, which month is it?

Mr. Whyte: The witness has stated to the best of his recollection, Mr. Enright. It’s been asked and answered, and I am going to instruct the witness not to answer it further.

Mr. Enright: Q. All right, which month of the year 1953 did you commence working for the County of Orange as an appraiser.

Mr. Whyte: Same objection.

Mr. Enright: You instruct him not to answer.

ony of Roy E. Hallberg.)

Enright: Will you cite the witness, instruct
ness, Miss Reporter?

Whyte: You don't have to. I will stipulate
u that the questions may have been put to
ness in the proper manner. You don't have
rough any formal rigmarole.

Enright: I appreciate your concept of rig-
but you do agree, do you, Mr. Whyte, that
he reporter has instructed the witness to
this question: In what month of the year
d he become an employee of the County of
at a salary of \$350 a month?

Whyte: So stipulated.

Enright: And the witness refuses to an-

Witness: On advice of counsel.

Whyte: On advice of counsel.

Enright: All right.

Now, do you have any particular office hours
the week as an employee of the County of
? A. No.

Are you required to report at any time on
y of any week? A. No.

Will you state how many days during the
of December you worked for the County of
; that is, December, 1953?

Whyte: Objected to as having already been

(Testimony of Roy E. Hallberg.)

Q. Do you have a telephone extension number?

A. No.

Q. Who is it that assigns you or directs your work whereby you receive a salary of \$3,000 a month as an employee of the County of Orange?

A. Chief Appraiser of the Personal Property Division.

Q. His name, sir? A. Mr. Louis Byrnes.

Q. Would you spell it? A. B-y-r-a-n-e-s.

Q. How long have you known him?

A. About three, six months, I guess. No, since about—it's about four months.

Q. Can you state how many days during the month of December you rendered services to the County of Orange?

Mr. Whyte: Objected to as having already asked and answered.

Mr. Enright: Q. Will you state how many days—and this has not been asked of you—you expended your time in rendering services to the County of Orange in the month of January, 1954?

Mr. Whyte: If you can recall, Mr. Hallberg.

The Witness: No. [106]

Mr. Enright: Q. On advice of counsel, you can't recall, is that right, Mr. Whyte?

Mr. Whyte: I asked him if he can recall.

Mr. Enright: Is that an objection for this court?

ony of Roy E. Hallberg.)

Enright: Are you aiding the witness, Mr.

o you recall——

Whyte: Mr. Enright, I don't like your atti-

Enright: I appreciate you don't. That's mu-

Whyte: I stated on the record that if the
can recall, he may answer.

Enright: Is that an objection?

Whyte: That is not an objection.

Enright: Very well.

an you recall, Mr. Hallberg?

said I couldn't recall.

ow, I will ask you another question, Mr.

r: Can you recall how many days during
th of February, 1954, you spent in render-
ces to the County of Orange at a salary of
month? [107]

he exact time? I cannot recall.

an you give us any estimate at all as to the
of time you spent in either one of those
onths, December, January or February,
54?

Whyte: Will you read the question back,
Miss Reporter?

The pending question was read by the re-
er.)

(Testimony of Roy E. Hallberg.)

Did you so testify, and the following did at that time, on April 22, 1954, is that correct?

A. Yes.

The Court: I understood his testimony he day to be that he worked on an average of hours a day on a five-day week for the County of Orange during the time in question.

Is that right, Mr. Hallberg?

The Witness: That is correct.

Mr. Enright: Well, I had to ask the question because the witness at page 36, I think it is, answers, testified at that time, so now I am formed his questions and answers were:

"Q. Now, do you have any particular office during the week as an employee of the County of Orange? [108] of Orange? "A. No.

"Q. Are you required to report at any time any day of any week? "A. No."

That is the subject matter we are now informed. I take it, this Receiver had an eight-hour day for the County of Orange.

The Court: As I understood him, it was an average of eight hours per day on five-day week but that it wasn't always eight in any one particular day, it just averaged up to eight hours.

Mr. Enright: Well, I understand that to be his testimony. I will clarify, if I may.

The Court: Surely.

Q. (By Mr. Enright): Were you or were

ony of Roy E. Hallberg.)

o. The requirements there are eight hours

Well, what eight hours is it, between mid-
d midnight, or what? A. Could be.

ou mean there are no office hours, so far
re concerned, in your status as an employee
ounty of Orange? [109]

he type of work I was doing——

lease, sir, would you mind answering my
? A. I am trying to.

am not concerned about the type of work
doing. I am concerned only in one point, as
office hours.

nright: I submit it involves only an an-

Witness: I had no office hours.

By Mr. Enright): That is your testimony?
hat is it.

court: Mr. Hallberg, were you appraising
, or what?

Witness: I was auditor-appraiser.

court: Was that work performed in an of-
the county establishment or was it per-

—— The Witness: Out in the field.

court: ——various places.

Witness: Out in the field. A lot of the work
icked up was analyzed and transferred to
ords at home that night.

(Testimony of Roy E. Hallberg.)

Q. (By Mr. Enright): Weren't you required to spend a one-half day in the office and one-half day [110] in the field?

A. Not necessarily.

The Court: Well, was that the practice?

The Witness: No, it wasn't the practice.

The Court: I don't like to interrupt in the middle of a phase of cross examination, but we are going to adjourn for the day.

You noted the jury case ahead of you, which was scheduled to have ended last week, but it has not yet been over as yet.

I know counsel arranged their calendars for the days on which a case is set, so I am making them work on a share-time basis until they get through.

We can open at 9:15, if you like, tomorrow morning, because we are going to have to give them the afternoon off at noon.

You don't have to come at 9:15, if you wish. You will get in a long morning. If it is an inconvenient hour, we will convene at 10:00.

Mr. Enright: I am committed to transcribing mental calls between 9:00 and 9:45. I can be here at 9:30, perhaps. I had better ask it be at 9:45 if that may.

The Court: All right. We will stand adjourned until 9:45 tomorrow morning.

(Whereupon, at 4:45 o'clock p.m., Wednesday, May 12, 1954, an adjournment was taken.)

LOUIS B. BYRUM,

on behalf of the defendants, being first duly testified as follows:

Clerk: Please be seated. Your full name, sir.

Witness: Louis B. Byrum.

Direct Examination

By Mr. Enright): What is your residence, Byrum?

15 North Van Nuys, Santa Ana.

Your occupation, sir?

I am a Deputy Assessor with the County of

Do you know Mr. Roy E. Hallberg?

Yes, sir.

How long have you known him?

I would say approximately five months.

You came to the courtroom with him this

morning, did you?

I came up with him, yes, sir.

Are you in any manner connected with Mr.

Hallberg in your employment?

My position is supervising appraiser, and he is in my department. [115]

Is Mr. Hallberg assigned to appraiser work on real estate and personal property for the County of Santa Ana?

A. He is not.

Does he work under your direction?

He does.

What is his assignment under your direction?

(Testimony of Louis B. Byrum.)

Q. Have you produced the record of Roy Hallberg making application for employment in the County of Orange? A. I have not.

Q. Did you check to see if there was such a record?

A. That is not within my jurisdiction. It is not in my department.

Q. What did you do in response to this subpoena?

A. I found out that my particular position was not either to hire or fire. That is not even under my jurisdiction. I have no access to those records.

Q. Did someone say that to you? I asked you what you had done. You told me what you found out. I believe that is your conclusion.

I am merely trying to find out what you did.

A. I was informed that those were not——

The Court: Then you made some inquiry?

The Witness: I did make some inquiry.

The Court: What he wants to know is what inquiry did you make or what led to your being informed?

The Witness: I found out that the records did not show the employment——

The Court: How did you do that? Did you go down a book and find rule so and so or did you ask the County Council?

The Witness: No, I talked to the assessor

ony of Louis B. Byrum.)

standing that Mr. Hallberg works under your
supervision and direction?

Under my supervision, yes, sir.

Can you state when Mr. Hallberg started to
work under your supervision and direction?

I hadn't stated, no, sir.

Would you state? A. December 7th?

1953? A. 1953.

Did he continue to work under your super-
vision and direction through February 28, 1954?

That is right, yes, sir. [117]

Was he still under your supervision and direc-

A. Yes, sir.

Did you direct him to report for work on the
days of Monday through Friday at a par-
ticular hour in the morning?

A. No, sir.

Have you ever given him any direction as to
the hours of his employment?

A. No, sir.

You know, of your own knowledge, whether
there are any particular hours of employment?

The county ordinance provides a 40-hour
week of eight hours a day, but no specific time.

Court: Does it require that 40 hours be de-
voted during the week to county business?

Witness: That is right, yes, sir.

Enright: I must confess, your Honor, sur-
rounding this time, and I will state the basis of the
evidence by interrogating the witness.

(Testimony of Louis B. Byrum.)

The Court: You don't have to state it further if your purpose is impeachment.

Mr. Enright: All right. [118]

Q. (By Mr. Enright): Did you have a conversation on the telephone with me last Tuesday concerning the subject matter of your appearing in this court on Wednesday?

A. I had a conversation concerning appearing, yes, sir.

Q. Now, before that conversation last Tuesday that is, of this week, had you also talked to Winthrop O. Gordon, an attorney practicing in Santa Ana?

A. Yes. He came to my office.

Q. And he served the subpoena upon you, is that right?
he? A. He did.

Q. Did he at that time show you a letter?

A. He did.

Q. He did? A. He did.

Q. Do you have a copy of the letter?

A. I have a copy—I have the original, I believe.

Q. May I see it? A. No, it is a copy.

Mr. Enright: May I have the document marked for identification?

The Clerk: Defendants' Exhibit A for identification.

(Said document was marked Defendant's Exhibit A for identification.)

Q. (By Mr. Enright): Directing your

ony of Louis B. Byrum.)

subpoena was served upon you, which I was some day after May 3, 1954?

Did you answer that last part first? The subpoena was served after May 3, 1954, wasn't it?

Yes.

And at the time the subpoena was served upon you this letter, didn't you, Exhibit A?

Yes, it did.

Now, my question is: Did you have a conversation with Mr. Gordon concerning the second subpoena? I will read it.

Understand Mr. Byrum will testify that he is Deputy Assessor, Auditor-Appraiser, for the County of Orange, in charge of marine and personal property appraisal; that in this capacity it is his duty to supervise the work of Mr. Roy E. Hallberg; that he has been instructed and is required to re-work each day of the week Monday through Friday at the hour of 8:00 a.m., and to remain on duty until 5:00 p.m.; that he is required to spend one-half of each day in the office and one-half of the day in the field, performing his duties as an appraiser; that Mr. Hallberg commenced performing his duties on Monday, December 7, 1953, and has been paid [120] each work day through February 1954 at a monthly salary of \$355.00 per month."

Did you have a conversation with Mr. Gordon?

Yes, sir.

(Testimony of Louis B. Byrum.)

Q. What did you state to Mr. Gordon?

A. I told him that the contents of this letter were incorrect.

Q. You stated that to him at the time the poena was served?

A. I told him that at the time.

Q. Did you have a previous conversation, in 10 days or more, or approximately, before the letter was shown to you?

A. I had a previous conversation with Mr. Winthrop—I don't recall the exact time.

Q. Did you at that time tell Mr. Winthrop that Mr. Hallberg's hours were from 8:00 in the morning until 5:00 in the afternoon?

A. I did not.

Q. What are his hours?

Mr. Whyte: Objected to as having already asked and answered; gone over several times.

The Court: Overruled.

The Witness: The question is what are his hours?

Q. (By Mr. Enright): Yes, work days.

A. There is no definite hours set up in the ordinance.

Q. What hours do you report to work?

A. I happen to be supervising appraiser and the office opens at 8:00, but many times I am not there. If I have other business I don't go near the

ony of Louis B. Byrum.)

What time do you leave the office when you
 working?

sometimes leave at 6:00 o'clock. I some-
 leave in the afternoon at 4:00 o'clock, or any

How many men or persons work under your
 there? A. Some approximately 60.

?

es. That could vary one way or the other,
 is approximately the number.

Will you again state the nature of the work
 had instructed Mr. Hallberg to perform?

Mr. Hallberg is an auditor-appraiser.

Will you now explain what are the duties of
 or-appraiser under your direction for the
 of [122] Orange, and Mr. Hallberg in par-

What his particular duties are?

es.

is duties are to call upon the various indus-
 the county, to prepare assessment state-
 r them, to assist them in preparing assess-
 tements.

Does he have any office duties at all?

No definite duties, no.

What does he do when he works in the office
 county of Orange under your direction?

He comes in and possibly completes his work

(Testimony of Louis B. Byrum.)

Tell me how he completes his work in the

A. Well, do you want me to go through complete assessment procedure?

Q. Yes, if that is what Mr. Hallberg does. participates in it, would you explain what his are?

A. He obtains from the taxpayer—he obtains property statement and then he figures the values, assessment values, and then transfers that to a permanent record.

Q. And that is a part of his duties, to make this permanent record of the County of Orange?

A. Right. [123]

Q. And how many hours a day does he spend in performing this office, these office duties?

A. I can't answer that question.

Q. Have you no knowledge of how many hours a day he spends in the office during this period?

A. I don't know. It isn't definite.

Q. But you do observe him there, don't you?

A. That is right, but I couldn't answer that. I do not know.

Q. Well, how many men perform the same type of duties that Mr. Hallberg performs, that you have under your direction?

A. We have two that are performing the same type of duties.

Q. Now, have you ever done this appraisal yourself? A. Yes, sir.

ony of Louis B. Byrum.)

ally open during office hours, aren't they?

Whyte: Objected to as leading and suggested argumentative. This witness is called byendants in this case, and I suggest thatstand by questions which are to elicit directny.

Court: I think he should have full privi-cross [124] examination of this witness. I now that he is strictly adverse. Mr. Enright, at least living up to expectations, it doesn't you to full impeachment, but I think it does you to a rather full cross examination, so allow it.

Witness: I don't remember the question.

By Mr. Enright): Now, I will reframe the n. You have done assessment work such as llberg is performing for the county, haven't the past? A. Yes, sir.

and does that involve going out to the places ness situate in the County of Orange and at the personal property there? t does.

n their places of business? A. Yes.

t is personal property assessment, isn't it? am in charge of the personal property divi-s, sir.

That is the type of work Mr. Hallberg is

(Testimony of Louis B. Byrum.)

ing the hours of 8:00 in the morning until approximately 5:00 in the evening? [125]

A. They are not.

Q. They are normally, that is, normally you do the work of assessing?

A. May I ask you a question?

Q. Surely.

A. Bullock's don't open until 10:00 o'clock they?

The Court: Mr. Witness, we can't get into arguments. You can ask questions if it is necessary for you to understand.—

The Witness: The point was that I was asking—

The Court: —the question put to you. I take that as an answer to the effect that you governed somewhat by the hours of availability of the persons conducting the businesses whose value your office appraises, is that right?

The Witness: That is correct.

Q. (By Mr. Enright): Now, the offices or places of business in Orange County are normally available for assessment work during the hours from 8:00 to 5:00 p.m.?

A. Will you restate that question? I didn't understand it.

Mr. Enright: Will you read the question?

(The question was read.)

ony of Louis B. Byrum.)

al work is done during the business day,
? [126]

Witness: Yes, but some of them, your
are not open at that time of day. Do I make
?

Court: Yes. I am trying to appreciate what
ses would not be open during the daytime,
arly in Orange County. We don't think of
night spot. Offhand, can you name any man-
ing industries that work three shifts down
t Santa Ana at this time, that work around
ek and have the executive offices open 24
day.

Witness: No, I don't know that.

Court: The witness has said that work is
ily done during the business day. The court
ands the business day to mean some time
a sunrise and sunset, as an ordinary thing.

(By Mr. Enright): Now, ordinarily, you,
rum, do not go out at sunrise, around 6:00
morning and go into these executive offices
records of these personal property owners,
assessment work, do you?

No, I do not, not at sunrise.

It is normally after 8:00 o'clock in the
g?

It is normally after 8:00 o'clock, yes, sir.

It is before 5:00 o'clock when the normal

(Testimony of Louis B. Byrum.)

A. Well,——

Q. Isn't that right, Mr. Byrum?

A. Yes.

Q. And normally Mr. Hallberg performs eight-hours' duties between 8:00 in the morning 5:00 in the evening, isn't that right?

A. That is not right.

Mr. Enright: No further questions of this
ness.

The Court: Well, does Mr. Hallberg's work include the preparation by him of reports and documents of one kind and another for your office?

The Witness: Yes.

The Court: Is that work of preparing forms one that requires a small amount of his time or does it require a large amount of his time?

The Witness: I would say that the preparation of the data requires about as much of his time as the actual interview in the business.

The Court: Do you have some rules or regulations of your office where that preparation of data shall be done?

The Witness: We do not.

The Court: Ordinarily a person having a problem with the assessor's office can walk into the assessor's office and find someone back of the counter who is available to answer questions or give office assistance, sir. Is that true of [128]

ony of Louis B. Byrum.)

being the person behind the counter, to
such services?

Witness: He does not.

Court: Well, what are the duties that he
in the office?

Witness: His duties within the office are to
his assessment of the business. In other
to make permanent records and transfer to
nt records, and he may do that in the office
ay do it at home. He may do it anywhere.
n't necessarily have to do it at the office.

Court: Is he on a quota basis?

Witness: He is not.

Court: Was he at any time within the past

Witness: On a quota basis?

Court: Yes, turning out a certain amount
For instance, we judges are on a quota
they assign us a certain number of cases.
e to handle a certain number.

n assign your deputy assessors, such as Mr.
, a certain number of cases or assessments
n areas?

Witness: Yes, I turn over definite cases to
9] Hallberg.

Court: Now, did he during the time, begin-
December of 1953 and extending through
f 1954, turn in a full quota of work?

(Testimony of Louis B. Byrum.)

his employment with you, in order to dispatch quantity of work? Do you understand what I

Would a man have to work about 40 hours a week in order to do that much work?

The Witness: It would seem so, yes.

The Court: Do you have any reason to believe Mr. Hallberg didn't devote that amount of time to the discharge of his duties with you?

The Witness: I have no reason to believe that is not. We were aware of the fact that he had other commitments.

Mr. Enright: I move to strike the statement as not being responsive to the question.

The Court: It wasn't responsive to any particular question. It is something which could have been brought out by a proper question, though, so I will stand.

Q. (By Mr. Enright): If one were to call extension 2-6211 and ask for Extension 355 he would reach Mr. Hallberg?

A. You would reach my desk, my phone.

Q. Kimberly, I think it is.

A. That is right. You would reach my phone at my desk.

Q. Do you permit the deputy assessors to remove the permanent records of the County of Clark away from the office to their homes?

A. I might explain that in this way: We have what is known as a fee sheet, real estate

ny of Louis B. Byrum.)

red to a permanent roll, which never leaves
e.

court: Counsel, just for your information,
point out to me, if I am in error, wherein
error, but I think the point has been pretty
de here that the County of Orange had a
upon Mr. Hallberg for 40 hours a week.

understand this witness' testimony, that 40
as served by erratic time. I think it makes
ence whether, for the purpose of this case,
lberg did the work at home or if he did it
office. He was spending 40 hours a week
ange County, which would show that 40
week, at least, were not being devoted to
es of this Receivership.

nright: Yes. At a rate of pay of \$355.00

court: And that he was earning \$355.00 a
[I think those points have been pretty well
he [131] important thing here is how shall
considered in the fixing of his fee?

nright: I have no further questions on the
bject matter.

By Mr. Enright): Tell me, you didn't em-
. Hallberg, did you?

do not employ them, no.

id you have any conversation with him con-
the terms of his employment before he was

(Testimony of Louis B. Byrum.)

Q. Was it a week or 10 days before he commenced to work? A. Yes.

Q. That would be in the latter part of November?

A. This particular conversation that I had with him was as a result of examinations. In other words, I talked to 15 people who took this particular examination, and I wouldn't say I definitely talked to him about a permanent appointment at that time, because I hadn't interviewed the others. If that is what you are trying to bring out.

Q. I am trying to fix time, first, Mr. Byrum. When was the examination given?

A. I can't remember that, really. [132]

Q. Was it 30 or 60 days or 90 days before November 7, 1953?

A. I conducted so many examinations at that time I don't really—there are several examinations conducted.

Let me explain a little bit. You see, we employ about 40 seasonal people, and these examinations were conducted from time to time, and I cannot tell definitely when this one was conducted.

The Court: Is Mr. Hallberg an employee on a seasonal basis?

The Witness: He is a permanent employee, sir.

Mr. Enright: I didn't hear the answer. Will you read it?

ony of Louis B. Byrum.)

Enright: That is my understanding.

Witness: Yes.

By Mr. Enright): In any event, there were
several persons interviewed by you concerning
the particular position held now by Mr. Hallberg?
Yes, sir.

And among those 15 persons one of them was
Hallberg? A. Yes, sir.

And at that time you had a conversation
with [133] Hallberg, did you, concerning his
employment?

Yes, concerning the employment.

Was Mr. Hallberg?

He hadn't definitely been selected at that

Was that the time you were advised by him
of previous commitments?

I don't know.

What did he say about his previous commit-
ments to you?

At the time I called him for work, I know
the time he told me about previous commit-

What did he say?

When I called him to go to work, I believe it was,
the day—wait a minute. It was either Wednes-
day or Thursday of the—before the 7th of Decem-
ber. I called him.

(Testimony of Louis B. Byrum.)

Q. And that is all that was said at that time? He did report for work on Monday, the 7th, did he?

A. That is right.

Mr. Enright: I have no further questions of this witness.

Mr. Whyte: I have one or two questions of Louis Byrum.

Mr. Enright: May I offer in evidence Exhibit 134 for [134] identification. That is the letter the witness admitted receiving.

The Court: Admitted.

(Said document marked Defendants' Exhibit 134.)

A was received in evidence.)

Mr. Whyte: Just for the purpose of the record, I would like the record to show that this is an attempt to impeach Mr. Byrum with respect to a matter which is wholly immaterial.

I registered an objection yesterday to this line of testimony, as to what Mr. Hallberg did for the County of Orange for the time he spent there, because what he did down there doesn't make any difference in so far as his compensation for the receivership is concerned.

If he did the things which are alleged in his petition and spent the time that he says he spent and performed the duties which are enumerated and set out in his petition, and testified in his deposition, then, in my opinion, it doesn't make any difference what he did on the side, but

ony of Louis B. Byrum.)

Court: Of course, he is entitled to compensation for what he did. But in order to know to what extent we are required to know how much compensation on Mr. Hallberg's time this Richman trust

Whyte: I realize that, your Honor has ruled [35] I am not objecting.

Court: All right. I am just letting you know that I do think it is proper for that purpose. For instance, Mr. Hallberg had held this position in the County of Orange for 10 years, and then I asked him to take a receivership and he left the County of Orange because the receivership was taking up all of his time and would not let him come here and say, "I worked 20 hours a day on receivership," that would entitle him to a certain compensation than a business which would require full time employment.

Whyte: May I proceed?

Court: Yes.

Cross Examination

By Mr. Whyte): I understood you to say, Mr. Byrum, that the preparation of the data with reference to the appraising and assessing took about the same time as the actual appraisal work in the office, is that correct?

(Testimony of Louis B. Byrum.)

necessary towards appraisal work at his home during the evenings?

A. I couldn't answer that question, I don't know.

Q. Are you acquainted with the fact that last night Mr. Hallberg visited a large restaurant in the County [136] of Orange after dinner, in connection with the performance of his duties at your office?

A. I am aware of the fact he did.

Q. Yes.

A. He turned in a report on it this morning. I can't swear that he did it last night, but a report was turned in this morning on that business.

Q. Did the report show that the work was done some time after 5:00 o'clock last night?

A. I wouldn't be able to swear to that.

Mr. Enright: I object on the ground that the report is the best evidence of what it states.

The Court: Objection sustained.

Mr. Whyte: The facts will speak for themselves because Mr. Hallberg was in court all day yesterday. The court can draw its own conclusion as to when he performed that work.

Q. (By Mr. Whyte): You mentioned, in connection with the preparation of the data necessary for Mr. Hallberg's work, there is no requirement that that need be done in the office, is there not?

A. There is not.

ony of Louis B. Byrum.)

about December 7, 1953. Did he tell you at
e that he had prior commitments with ref-
to a receivership in the [137] Federal

e did not, not that he had a receivership.
me that he had prior commitments, other
at he had to clear up.

What did you say to him? Did you tell him
t was perfectly all right?

might just—you want me to answer the
? I would like to say that quite often
u employ a person——

nright: I move to strike what they quite
. The question is what was the conversa-
that time.

Witness: I don't remember.

court: Motion granted.

By Mr. Whyte): You answered you don't
er, Mr. Byrum?

es; I don't remember.

court: May I ask one question? Is Mr.
g now required to devote his full time, or,
t another way, is he now allowed at this
have outside employment? Do you under-
hat I mean?

Witness: To have outside employment when
rking for the County of Orange?

court: Yes

(Testimony of Louis B. Byrum.)

offices which require persons taking employment there to not have any other employment. That some municipalities which have those requirements with respect to peace officers and so on. They have to have their full energy devoted to the requirements of the position.

I wondered if this position which Mr. Hallberg has has that requirement as of this time.

The Witness: I don't remember just what the terms of the county ordinance in that respect are.

Mr. Whyte: I have no further cross examination.

The Court: Redirect?

Mr. Enright: No, I have no questions.

The Court: May this witness be excused?
(Witness excused.)

Mr. Enright: Mr. Hallberg.

ROY E. HALLBERG

called as a witness in his own behalf, having previously duly sworn, resumed the stand and testified further as follows:

Cross Examination—(Continued)

Q. (By Mr. Enright): I direct your attention to the oath of Receiver constituting a part of the files in this action, and to the fact it is filed December 2, 1953.

That is the day on which you took your

ony of Roy E. Hallberg.)

That was a Wednesday before December 7,
er, we can check it from the calendar, of
think the court takes judicial notice.

Had been out directing the managers of the
ent houses before you signed your oath on
r 2, 1953, hadn't you?

We had gone out to advise them that the
ment was going to be invested in a Re-

ou did more than advise them, you took
ey from two or three of the five apartment
s? A. Two of them, yes.

Did you tell his Honor, Judge Tolin, at the
filed your oath here on December 2, 1953,
nesday, that you were to become a perma-
ployee of the County of Orange, commenc-
day, December 7th?

didn't——

Whyte: Objected to as immaterial, irrele-

court: Overruled.

Enright: Will you read the question?

(The question was read.)

Witness: I knew nothing about it.

By Mr. Enright): You heard the testi-
Mr. Byrum——

at the time we filed that—— [140]

arden me just a moment Mr. Hallberg

(Testimony of Roy E. Hallberg.)
cember 7th, that he talked to you concerning going to work on the following Monday?

Did you hear him testify to that?

A. I did not hear him testify that was nesday morning before I went to work.

Q. Tuesday or Wednesday, then, before went to work? A. No.

Mr. Enright: I will stand on the record.

Q. (By Mr. Enright): You did have a co sation with him before you did go to work, d you?

A. I had a conversation before I went to yes.

Q. You went to work on December 7, 1953, that clear? Can we agree on that?

A. Went to work where?

Q. County of Orange.

A. No,—I am sorry. December 7th, yes.

Q. Now, that was on a Monday, wasn't it?

A. That was on a Monday, correct.

Q. Now, the previous week you had a co sation with Mr. Byrum, as he testified to her the witness stand, [141] didn't you?

A. That is correct.

Q. Now, directing your attention, Mr. Hall to your employment previously to going to wor the County of Orange, you were employed d the period of September 1952 to October 195

mony of Roy E. Hallberg.)

Your rate of compensation was \$350.00 a

A. That is correct.

And that company was engaged in the business of manufacturing plastic fishing poles?

That is correct.

Before going to work for that company you were employed by the Morgan Construction Tool Company?

A. Yes.

For the period of May or June 1951 through December 31st or through December of 1951, isn't that correct?

A. That is correct.

Your rate of compensation there was \$100.00

That was not compensation, that was a drawing account.

It was a drawing account as a result of your having invested \$18,000.00 in the purchase of stock in the Morgan Construction Tool Company?

Both the president and I took a hundred dollars a week as a drawing account.

You invested \$18,000.00 in the company because you mentioned taking this drawing account, is that right?

A. I don't see—

Court: Was the drawing account against the assets of the company or against salaries, or commissions, or what?

Witness: It was mostly against possible profits of the company.

(Testimony of Roy E. Hallberg.)

isn't that right? A. That is correct.

Q. Do you know a G. T. Gilliam of Alta California? A. I know of him.

Q. Is his business that of selling his service as an efficiency expert? A. That is correct.

Q. Did you, before going to work with McClellan Construction Tooth Company, work for a period of time or attempt to work for a period of time with Mr. Gilliam, in carrying on his business of consulting with business concerns?

A. My connection up there was more or less as a helper and—or giving him aid. I did not do the actual work out in the field. You asked that question before. [143]

Q. In your deposition, and you did not remember it at that time?

A. I said no, definitely not; I didn't know you asked me.

Q. Perhaps then, my words did not convey the exact act or thing you did. Now, will you explain what you did do, if that will aid you in answering the question? I do not want to limit you by a question.

A. The assistance I gave him was organizing a group of individuals to help and assist him in the actual work. At that time I was not capable of sustained work.

The Court: You had some physical difficulties

mony of Roy E. Hallberg.)

er months on end I was in bed, and the times
p were limited.

a't do any physical work, and finally had an
on.

(By Mr. Enright): Now, during that period
that you were carrying on the activities, as
ve described them, with Mr. Gilliam, you
d a lot known as 85 Glen Summer Road in
na, at about that time?

If I remember correctly, I had the lot.

Well, you acquired the lot at 85 Glen Sum-
oad on May 29, 1947, being Document 901
official records of the offices of the County
er's office? Does that [144] help you at all
g the date?

Yes, that is approximately right.

Did you build a house there? A. I did.

And you sold that house on February 19,

A. Approximately.

Now, during that period of time you also
d a lot at 90 Glen Summer Road on Octo-
1947, being Document No. 146 of the official
of the County Recorder's office?

That is correct.

And you sold that lot and the house you
n it on June 17, 1952?

That is approximately correct, yes.

Now, before acquiring the lot on April 29.

(Testimony of Roy E. Hallberg.)

Q. And that 13-year period covered the from about 1932 or '33 to 1947?

A. That is correct.

Q. And your duties with the Garrett Company pertained to the marketing of wines?

A. That is correct.

Q. In no manner did your duties to the Garrett Company [145] pertain to the operating of amusement houses?

A. No; that is correct.

The Court: What was your compensation?

The Witness: Well, the earnings ranged about \$40,000.00 a year net.

The Court: What do you mean by "net"?

The Witness: After I paid my expenses whatever other expenditures had to be made.

The Court: You don't mean after taxes?

The Witness: No.

Q. (By Mr. Enright): You terminated that employment and came to California about March 1947?

A. That is correct.

Q. And this \$40,000.00 a year you refer to monies you received in the sale of wine or directly the sale of wine in and about the New York

A. Directing the sale of wine throughout New York area, Metropolitan New York area in New York State.

Q. Including Brooklyn?

A. Well, most people don't think Brooklyn

part of the United States

ny of Roy E. Hallberg.)

at houses, did it? A. Right. [146]

the first apartment house that you had any
en with in California was at 509 Fair Oaks
d, an apartment house in Pasadena?

never had a building at 509.

09. I misread my notes. Is that right?

that is correct.

ou acquired that house December 20, 1949,
deed recordation of Document 116, on that
official records of Los Angeles County?

that is approximately correct.

was a 14-unit apartment? A. 16.

ou yourself owned it, did you?

did.

nd you hired a manager? A. Correct.

our mother-in-law? A. That is right.

nd you disposed of that apartment house
mber 29, 1950, being Document No. 1037
official records of Los Angeles County?

pproximately that.

e for approximately 11 months you were
an apartment house at that address in
a, California, or South Pasadena? [147]

that is right, yes.

ourt: Did you ever do anything with re-
the management of it?

itness: Well, we had a resident manager
at so far as the actual managing the per-

(Testimony of Roy E. Hallberg.)

Q. (By Mr. Enright): You ordered a things done on these 14 apartments during 4 months you had it?

A. 16 apartments,

Q. In addition to the 85 and the 90 Glenmer Road and the 1509 Fair Oaks apartment you did acquire an unfurnished 4-family unit at 507 El Molino Street in Pasadena, California December 29, 1950, didn't you?

A. Approximately that time, yes.

Q. You and your wife jointly or individually one of you owned that property alone, didn't you?

A. Well, I believe the record will state all the buildings were joint tenancies.

Q. Yes. And you still own that unfurnished family unit?

A. There is one apartment there furnished.

Q. Those are all the properties that are in Los Angeles County that you had had any connection with when you were interviewed by this Commission?

A. In California? Yes.

Q. I said Los Angeles County. Because there are two down in Orange County, isn't that correct, Mr. Hallberg?

A. Yes.

Q. Those are single residences and one is a duplex or triplex?

A. One is a triplex and the other is a residence.

The Court: The triplex is residential property.

The Witness: Yes, it is in a residential neighborhood.

ony of Roy E. Hallberg.)

Witness: No.

Court: Or for residence?

Witness: It is for residences. People live
. They are both furnished, incidentally.

By Mr. Enright): You moved to Orange
in 1952, didn't you? A. Yes.

And after moving down there, you built this
or single residence, which came first, will
plain that? A. Triplex.

And sold it, did you? A. No.

You still own it? A. Still own it. [149]

You built a single residence down there in
County then? A. Yes, that is right.

Now, you have recited, have you not, to the
our experience in dealing with real prop-
California, in answer to my previous ques-

A. Your previous questions, yes.

The only business address you had, since you
ome to California, was the address of the
Construction Tooth Company in Pasadena,
you used during the period June or May
December 1951, isn't that correct?

directed all my mail to my home.

Well, did you advise his Honor before your
ment that you did have a place of business
Pasadena, a business address?

The address I used there was 509 South El

(Testimony of Roy E. Hallberg.)

Q. And that you represented to the court as having a place of business for you, is that right?

A. Well, it was an apartment house. I don't recall that I mentioned that as a business address though.

Q. I have reference to the statement made on November 30th of 1953, the date of your appointment, that it was [150] represented to the public by the court that you had a business address in Pasadena.

I assume you made that representation to the court, did you not?

Mr. Whyte: Objected to as calling for something that is outside the presence of this witness. He wasn't a party to any conversation between the court and yourself, Mr. Enright.

Mr. Enright: He was there part of the time. I will verify whether he was there at that time.

Mr. Whyte: I ask you lay a foundation here that he was present at any such conversation and knew something about it.

Q. (By Mr. Enright): Now, directing your attention, if I may step up to the witness stand and read the transcript of November 30, 1953, at page 150 of the transcript, line 11, is where you answered the statement of the court concerning your qualifications, with the words:

"Mr. Hallberg: That is correct."

Now, pursuing that transcript over to page

mony of Roy E. Hallberg.)

Enright: Read any portions you want. I enlisted a witness in my life.

I merely wanted to fix the point in that transcript on that day as being on page 10, that Mr. Hallberg was a witness in the chambers of this court at that time. [151]

the representation concerning the business was later on in the transcript, your Honor. page 15.

Whyte: Well, if you are going to read into the record something standing alone, an answer by Hallberg, "That is correct," why, why don't you read the whole transcript, to show what he is saying, what "That is correct" has reference to? I am going to request there be read into the record the whole conversation, to show what Mr. Hallberg was answering.

Court: Mr. Whyte, I am going to consider what occurred at that time and place. I will read the transcript in connection with the matter now before me, before deciding the issue here.

I might also read some of the transcript of the whole trial in this action, since this proceeding is ancillary to it, and one can pick up a great deal of information concerning the properties managed in the transcript of the trial of the case.

Whyte: Thank you, your Honor. I wanted to have in mind what Mr. Hallberg

(Testimony of Roy E. Hallberg.)

read all these things before deciding this. This isn't going to be [152] any precipitant action.

Mr. Enright: I am disturbed, your Honor, at the making of a decision involving the reasonable value of this witness' services based upon evidence that is not presented herein, pursuant to the petition and the answer to the petition.

The Court: Are you objecting to the court's considering the evidence which was presented at the trial of Tidwell vs. Richman?

Mr. Enright: Yes. I believe it would be proper. I seriously make that point. Otherwise, I do not know upon what does the court base its decision.

The Court: I will tell you what I intend to consider from the record of that case. That record shows somewhat the character of the properties which came into the receivership. And I intend to consider that.

That record shows what was charged by Mr. Richman for the management of those properties. It shows what experts, produced by Mr. Richman, thought would be a reasonable charge for the management of them. It shows what experts, called by Mrs. Tidwell, thought would be a reasonable amount, and it shows the general character of the property.

I think those matters I have alluded to must be properly considered. This proceeding cannot be

mony of Roy E. Hallberg.)

Enright: My point being this, your Honor: the court is to consider the evidence in the action, that it has just now stated, it would of course involve an examination into the qualifications of the persons involved in the management

Court: Well, that was open to litigation in the main action and to a certain extent it was introduced into the main action. No one waived their rights of cross examination at the time of that

built up a transcript of several hundred pages. I don't propose to read it all, but I am going to refresh my memory on the parts to which I have referred in general terms here.

Enright: I had not quite completed my statement, your Honor.

Court: All right.

Enright: My point was that the qualifications of those particular witnesses in their experience as property managers in this specific case alone was presented. And that would involve the whole transcript or the whole of the trial of the case. I am afraid.

I submit it would be improper to go beyond the record we are developing here.

(By Mr. Enright): Proceeding, now, Mr.

(Testimony of Roy E. Hallberg.)

Q. So you were there in the chambers at the time you gave this answer? That is correct?

A. I was, yes.

Q. You remained in chambers after that answer, until at least myself left the chambers because I was engaged in another trial?

A. So far as I know, I did.

Q. Now, directing your attention to page 1 of the transcript, commencing at line 3 through line 18, did you make the following statements:

“Q. (The Court): Yes. Now, if you gentleman wish to consult with the Receiver whom I have indicated will be appointed, we will provide one of the rooms adjacent to the chambers for such consultation, so that you may orient him to immediately pending problems which you feel might enter into the employment he is about to assume.

“I know you have another engagement, Mr. Hallberg, right, but you might take just long enough to make an exchange of names, addresses and telephone numbers and the like. [155]

“I am going to suggest to Mr. Hallberg, who I think has a place of business somewhere around here.

“Mr. Hallberg. It is in Pasadena.

“The Court: And you live at Corona Del Mar.

“Mr. Hallberg. That is correct.”

You did make those statements at that time?

A. Yes. I was referring to 509 South El Molino.

The Court: Did you have any business with

ony of Roy E. Hallberg.)

Court: —management of that building?

Witness: The apartment building.

By Mr. Enright): That wasn't an apartment building, a 4-family unfurnished flat?

It is usually called an apartment building.

Unfurnished, is that right?

One apartment is furnished.

One unit is furnished. And there are four units in that building at 507 South El Molino?

That is correct.

You call that an apartment?

They certainly do.

All four of them were rented on November 1, 1930, weren't they? [156]

That is correct.

The tenants were paying you rent?

That is right.

And you call that your place of business, is it?

I had access to a telephone there and also I had mail there.

Now, directing your attention to your experience in Chicago, concerning the operation of property, was it in the year 1930 or '31, isn't that correct?

A. '31, yes; 1930-31.

It was for a period of one year?

More or less. I think it is more. But I am not sure. That is quite a few years ago.

(Testimony of Roy E. Hallberg.)

Q. Mr. Eich was a bondholder of certain bonds issued by a bank at Chicago, isn't that correct?

A. He was a bondholder and receiver.

Q. I hadn't reached the receivership yet when Mr. Eich was appointed Receiver of the Bank of Hallberg. Now, the bank became defunct or insolvent, isn't that right, and Mr. Eich, by virtue of his bonds, took over some of those properties of the bank, which were securing his bonds, isn't that correct?

A. That is correct. He took them over as Receiver, though.

Q. You had never acted as a Receiver at any time, yourself, until this court appointed you Receiver, is that correct?

A. That is correct. I was handling the properties in receivership.

Q. Did you at any time advise this court before your appointment or on December 2nd, 1900, when you took your oath, that you contemplated rendering an eight-hour day's service to the Court in the County of Orange?

A. I didn't contemplate rendering service to the Court in the County of Orange at that time.

Q. The question is did you advise the court of your intention or contemplation of going to work for the County of Orange?

Mr. Whyte: Objected to as calling for, assuming facts not in evidence. The witness has testified he didn't contemplate going to work for the County of Orange at that time.

ony of Roy E. Hallberg.)

t thing, and I think you will allow that

Witness: I couldn't have told——

Court: You can just answer, did you or
ou?

Witness: No, I couldn't have. [158]

By Mr. Enright): You were appointed
r on Wednesday and went to work for the
of Orange on Monday, didn't you?

es. I had no knowledge of going to work for
ty.

Court: On the following Monday?

Enright: Yes.

Witness: No.

Enright: Following Monday, December 7th.
urt order here is December 2nd. He was
ed and took his oath.

By Mr. Enright): You never informed the
all at any time about going to work for the
of Orange?

didn't know I was going to work for the
of Orange.

did you inform the court after you went to
r the County of Orange?

ot that I recall.

n fact, you had told no one that you were
g eight hours a day as a part of your em-
t at the County of Orange until your depo-

(Testimony of Roy E. Hallberg.)

(The question was read.)

The Witness: I would like to have you that [159] a little differently. Will you state a little differently, please?

The Court: You just answer that the best you can. If it is an incorrect proposition, you clean it up.

The Witness: I will have to ask——

Mr. Whyte: You have a right to explain your answer, Mr. Hallberg. Answer the question as plain, if necessary.

The Witness: I will have to ask the reporter to please read that again.

(The question was re-read.)

The Witness: That is correct, so far as I know.

Q. (By Mr. Enright): At the time you were requested to act as Receiver in this matter before the court, you had then intended to delegate much of your work to Miss Cosgrove, is that correct?

A. I had intended to delegate the housekeeping to Miss Cosgrove.

Q. Did you inform the court of your intention of delegating what you call housekeeping to your wife, Miss Cosgrove? A. No.

The Court: We have gotten away from the 1931 transaction. I thought you were going to stay while we were at the point, so we wouldn't have to return to it again. But, as I recall the evidence, it has not been gone into. [160]

mony of Roy E. Hallberg.)

Witness: I was compensated on a basis dependent upon the rents received from the various properties. And I don't recall what the amounts were.

Court: Can you recall approximately what annual income was from that source during the time that you occupied that position?

Witness: Your Honor, I just don't recall.

Court: Was that a full time employment?

Witness: Yes.

Court: Or did you have other—

Witness: No. I was working there full time on the buildings.

Court: Were the buildings exclusively apartment buildings, or did they include other types?

Witness: They included various types. There were apartment buildings, apartment hotel, one or two flats, three flats, a couple of bungalows—they were scattered all over the north side of Chicago and the west side of Chicago.

Court: How did they compare in type of buildings—I don't mean all of them—but were there any that were comparable in some way to the class of buildings which were involved in the Richman properties?

Witness: Yes, there was one apartment ho-

(Testimony of Roy E. Hallberg.)

The Court: To which one of the Richman properties?

The Witness: I imagine that would be closer more along the lines of the Oliver Cromwell. It is in a fairly nice residential district and this was on the boulevard in the fair-income bracket neighborhood.

The Court: Were most of the apartment buildings in that earlier experience of yours building a lower class than were involved in the Richman trust?

The Witness: Not necessarily. I believe on the whole they were on a par. They were brand new buildings and they were out in new neighborhoods.

They were not in the fringe areas. They were substantial buildings, all of them.

Q. (By Mr. Enright): There was only one of the properties that was an apartment hotel, that right?

A. There was only one large one. There were several smaller ones. I recall,——

Q. Your principal duty was trying to collect rents from those people in 1931? A. No.

Mr. Whyte: Would you finish your answer? Do you recall what? May the court please allow the witness to finish his answer? [162]

The Court: Finish the answer.

The Witness: We had several smaller buildings, probably had 10, 12 little furnished apartments.

ony of Roy E. Hallberg.)

include only collecting rents. It was a com-
management.

(By Mr. Enright): That was the problem
though, wasn't it, collecting rent?

That was one of many problems.

Enright: Now, is that all your Honor de-
o ask concerning Chicago, bondholder's

Court: That is all I had in mind. I am not
ed in the bondholder's rights.

interested in the type of service which this
ndered there, what his experience was.

(By Mr. Enright): Now, directing your at-
to Mrs. Hallberg's experience. She gradu-
om the University of Minnesota, is that

A. That is correct.

During the period 1937-1942 she carried on a
s which you describe as investment counselor
York, is that right? A. That is correct.

And she had two clients, to wit, a Dr. Austin
nd Cox. [163]

Well, I am not familiar with the names of
nts nor the clients themselves.

Well, might I ask you——

As I understand it, that is correct.

Yes. That is Mrs. Hallberg's statement, isn't

I say, as I understand, that is correct.

(Testimony of Roy E. Hallberg.)

The Court: If he is using the deposition, using it as notes. What the question was, was whether she had two clients by those names.

Now, that is what I understood it to be, and that would be perhaps foundation for inquiring as to the nature of the services rendered them.

Now, I don't know how many clients the deposition might show, and I don't care.

Mr. Whyte: Very well. If your Honor has maintained the impression they are only two of the clients, I am quite satisfied. Thank you.

Q. (By Mr. Enright): Do you know whether or not she had any clients in addition to those I named? A. I don't know.

Q. So far as you are concerned, those are only two clients she had, is that right? [164]

A. I can't answer that, because I don't know.

The Court: Well, Mrs. Hallberg is present in the courtroom. The court will ask her to be available as a witness here, if you want to interrogate her into it.

Q. (By Mr. Enright): Now, I take it she came to California with you after—she terminated her investment business counseling in 1942. I suppose World War II stopped it, is that it? You don't know why, but she did terminate, is that it?

A. That is right.

Q. She came to California with you in 1945?

A. That is correct.

ony of Roy E. Hallberg.)

ou know, was decorating your home in New

he happens to have taken a course and some
with an institute in New York, of art and
I do know that.

What is the name of this institute of art and
that you know of?

I will withdraw the question, if by these 60
or so you have not remembered.

ou know anything else about this training
concerning apartment properties, other
at you have stated as of that time—— [165]
he has had that training in it. She has been
ed in it for a good many years, and she has
herself to be quite capable.

Enright: I move to strike “she has proven
to be quite capable.”

Court: Granted.

By Mr. Enright): Now, after coming to
ia, her experience in so far as residential
es are concerned, was, shall we say, the
of the color and the decorations of 85 Glen
Road, that one?

wouldn't say “mixing colors”.

he figured out the color scheme, is that it?
olor scheme, draperies, complete harmony
s throughout the house.

he same for 90 Glen Summer Road?

(Testimony of Roy E. Hallberg.)

A. There was a swimming pool.

Q. Much better than the La Loma Apartments or of these apartments mixed up here?

A. It is a matter of opinion.

Q. Give us your opinion.

A. I lived over in Pasadena.

Q. You were managing, you undertook to manage in [166] excess of \$2,500,000.00 of apartments here. Is it because of this Glen Summer Road experience, that it qualified you, is that your opinion?

A. Of course not.

Q. It didn't help you at all or help her managing these apartments, did it?

A. Just additional experience.

Q. Now, the additional experience was the 16 units at 1507 Fair Oaks, is that the next experience she had?

A. 16 units again.

Q. 16. Pardon me. For the 11 months, though?

A. She assisted me there quite materially.

Q. And the next experience would be the 4 units at El Molino Street?

A. Yes.

Q. And the single residence and triplex in Orange County?

A. Correct.

Q. Now, in addition Mrs. Hallberg has had experience as an employee of the County of Orange, too, hasn't she, in the hospital?

A. Oh, yes.

Q. When was that?

A. Oh, I think that was during the summer

ony of Roy E. Hallberg.)

67] Hallberg's business experience, other
at she does hold a real estate broker's li-

Whyte: If you can recall, Mr. Hallberg.

Enright: Thank you, Mr. Whyte.

Witness: Well, her business experience with
nty of Orange took in quite a bit of account-
k there and supervising of accounting.

By Mr. Enright): That was in 1953?

es.

The next subject, Mr. Hallberg, will be the
of the Oxyaire. You have that subject in

A. Yes.

Court: Do you want to take the morning
Mr. Enright, or do you want to go straight
ugh?

Enright: I believe I could organize it and
e it, but if the witness wants to take a short

Court: We will take a brief recess.

Short recess taken.)

By Mr. Enright): Among the files that
rned over to you by Mr. Richman on or
ecember 3 or 2, 1953, was one involving the
lution Control, Inc. contracts?

That is correct.

Now, I have shown this letter dated Decem-
1953, to counsel during recess. I want to use

(Testimony of Roy E. Hanberg.)
an authorization from the County of Los Angeles Air Pollution District concerning installation of pollution control facilities at one or more of the apartment houses? A. That is correct.

Q. Now, you next received, did you not, engineering drawings specifying the equipment that was to be installed by the Air Pollution Control, Incorporated? A. That is correct.

Q. Now, after receiving these files pertaining to the Air Pollution Control, authorization or order, you turned the files over to your attorney, Whyte, about December 24th?

A. That is correct.

Q. 1953. Did he then give you an opinion, sometime in December 1953, as to what were your duties as a Receiver with respect to the orders of the Air Pollution Control authority of the County of Los Angeles?

A. Yes, by the end of December he had given me that information.

Q. What was his opinion?

A. He stated that the contract signed was perfectly valid, to go ahead. [169]

Q. Now, on January 13, 1954, or within 24 hours after that date, you were informed by your agent, I assume, that a citation had been issued by the Air Pollution Control District, Los Angeles County, concerning the apartment houses, is that correct?

mony of Roy E. Hallberg.)

I think it was 418 South Normandie, the
ell.

Whyte: Speak up, Mr. Hallberg.

Witness: I am sorry.

Whyte: What apartment house was it?

Witness: Oliver Cromwell.

By Mr. Enright): And upon receiving that
, was your next act that of phoning to the
olution Control, Inc.?

That is correct.

You kept a diary, did you not, of some of
activities as Receiver? A. Definitely.

And you have a copy of it there?

Yes.

Now, this diary consists of notations you
about the time the occurrences are reported
diary? A. That is correct.

And it consists of notations made after con-
n [170] with your wife at home in the
, is that right?

No. On this one, I think I was——

Most of the entries in this diary are of that
are they not?

Not all of them, no.

I didn't ask you about all of them. I just
find out the method of keeping this diary.
as generally in the evening when Mrs. Hall-
turned from Los Angeles that you would

(Testimony of Roy E. Hallberg.)

we both returned home. It is a composite of work, for the most part, that was accomplished during a particular day.

Q. And it does not reflect who accomplished the work? A. No, it does not.

Mr. Enright: I had two photostats made. If the witness desires to keep his own original, it is all right with me.

I would like to have a copy made a part of the record. What would be the convenience of copying and the witness?

Mr. Whyte: Only one copy was furnished. With the original and my copy of the deposition, if it is convenient to the court, I will surrender my own copy and make it a part of the record, since I am getting along as best I can [171] without one.

Mr. Enright: Mr. Hallberg has a copy.

The Witness: I have the original.

Mr. Enright: I will take the original, if that is your wish.

The Court: The regular legal course, in the absence of some agreement between counsel or otherwise, would be to have the original received in evidence.

Mr. Enright: I seek the convenience of the witness and his counsel as to whether I should take the original.

Mr. Whyte: May I interrogate the witness at this moment?

ony of Roy E. Hallberg.)

k which you desire to keep, Mr. Hallberg?

Witness: Everything in here pertains to
ivities on the receivership.

Whyte: You have no objection then——

Witness: No, none whatsoever.

Whyte: It will have to be placed in the
files.

Enright: May it be marked next in order,
nts' exhibit.

: Defendants' B for identification.

Said document was marked Defendants'
hibit B for identification.)

Enright: I would like to offer it in evi-
as [172] I do not anticipate too many ex-

Court: I understood it had been received in
e.

Enright: Thank you, your Honor.

Said document marked Defendants' Exhibit
was received in evidence.)

M O N D A Y

10 Judge Tolson Cont^d
 11 Raining Court order
 12 To act as General
 per Buchanan
 Talent
 EVENING

Dec. 1

Tuesday

12/1 Friday

T U E S D A Y

9 Met John White
 10 And started
 11 women of Oregon
 12 To north branch
 of new landmarks.
 13 Disturbed
 14 Union threat
 EVENING
 15 Met Mr. Dwyer went over
 16 insurance policies
 17 given name of Bureau
 18 arranged for office at Ames
 19 Cornwell's place - made
 20 calls on all Agents collected
 21 rents & inspecting & making
 22 made deposit at Union
 Bank
 EVENING
 23 Some card collected

Wednesday

12/2 Saturday

Sunday

W E D N E S D A Y

9 Arranged for
 10 City of Albany & White
 11 to act as Bureau
 12 at Albany. Bond
 13 exchanged - 75000
 14 Fidelity deposit Co
 15 1/2 Md. @ 300%
 16 Approved by
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S A T U R D A Y

9 Put out office & Bureau
 10 picked up bonds & Bonds
 11 and filled (are current)
 12 and delivered them to office
 13 at Chain Cornwall
 14 ordered new Bank for office
 EVENING

S A T U R D A Y

[illegible]

apc 309 -
" 404 - 304
3-08. 70
12 Paint slave with
Lecras
EVENING

3-08. To
12 Hunt Store with
Larus

829

Tuesday

Friday

9 Car Games Above Court
10 Checkered Vaccaries de Bazar
at Acad. House

"Carmy party"
"Poppleman"
(W.T. Pratt)

(not Cont.)

Q2c-9

Wednesday

Saturday

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11
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EVENING

— Clip for Current Wave

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Trade Publications
Prepared by C. C.

Checked racanans

22

Tuesday

9 Band Hawks
10 Cooper's H.
11 White-throated Sparrow
12 Quail

EVENING

23

Wednesday

9. *Dorsus* *Chetani*
10. *Chetani* *Baldy*

12 make lists of
Bldg needs for
after Xmas

—The Current Week—

EVENING

ENDING

EVENING

265

Friday

EVENING

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Saturday

Sunday

—The Current Week—

10

← Clip for Current West

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EVERING

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9 Phonod. Visions

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EVERING

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EVERING

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M	10	From Shatto collected	2	Phone etc	10
O					
N					
D	11	Deposits made	3	"O.C." Pancakes with the Council	11
A					
Y	12	Worked on Payroll	4	the people. v	12

16

Evening

19

T	9	Adana went on problems and ap's	1	Phone etc	9
U					
E	10	Child on Mc Connell	2	To N.A.	10
S				Dr. Pfeiffer	
D	11	even classes	3	John Langherty	11
A				Trade Agency	
Y	12	Met (Pentecost) at P.C. seedbed	4	F.M. Church	12

17

Evening

20

W	9	F.M. Chel on painting made for La Terna	1	Saturday	9
E					
D	10	Printed map	2	Pool	10
N					
E	11	Packed up at Bridges	3	Spencer & Brother	11
S				Met for both	
D	12	San Antonio hospital	4	notes	12

Evening

21

Evening

22

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EVENING

Evening

Tuesday

Friday

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#301

all Petty Cash
checked

540.0
Mar 26 FM

Checked that
you are not

22

Wednesday

Saturday

Sunday

C. f. for Current: West

EVENING

EVENING

EVENING

mony of Roy E. Hallberg.)

(By Mr. Enright): Directing your attention January 13, 1954, you made the entry that even did you not, as follows:

Received notice re: Oliver Cromwell incinerator
V. P. said he would handle with authori-
zation. I urged him to get on our job. Said drawings
received."

Was your entry for that day concerning
Oxyaire matter, wasn't it?

Part of it.

Was there more? Read it, sir, if you will
Harrison"—Does that pertain to Roy Harrison
get them——"

A. "Reminded——"

"——with a letter (outlined contents for let-
ters that right?

A. That is right.

At that time the drawings were a part of
files, weren't they? [173]

They were a part of the files, but they
were not supposed to be. Harrison had been in-
structed to send them on.

Now, I call to your attention a letter dated
January 22, 1954. Does the reviewing of this letter
refresh your memory?

Wasn't until January 22, 1954, you did transmit
drawings to Oxyaire?

Witness: Will you read the question, please,
Reporter?

(Testimony of Roy E. Hallberg.)

out of that letter. The letter went out on that
Do you want to get this in evidence?

Q. (By Mr. Enright): Your next action concerning this situation by the public authority of this community, on that subject, occurred January 27, 1954, when you communicated your attorney, Mr. Whyte, that a criminal complaint had been issued. I don't think you have your notes, have you?

A. It is not in there.

Q. You didn't make an entry of that on that day. I would call to your attention Mr. Whyte's time sheet for January 27th, if he will make it available to you, and that might reveal you communicated with him on that day. [174]

A criminal complaint was then pending against Mr. Richman and your manager?

Mr. Whyte: If I may show the witness my time sheet.

Mr. Enright: Oh, certainly. I just want to establish the facts as to the performance of this relationship.

Mr. Whyte: My time sheets shows Mr. Enright telephoned, "Call from Harrison re: problem involved in preparing Receiver's first report. Criminal citation for alleged violation of smog regulations".

The time sheet is dated January 27, 1954.

Q. (By Mr. Enright): Did you direct Mr.

mony of Roy E. Hallberg.)

Enright: Now, to complete the record, may I stipulated that on Friday afternoon at 4:50 January 29th, your office informed Mr. Richman's office he would be in criminal court on February 1st on this citation, the following Monday?

Whyte: If you will allow me to refresh my recollection from my time slips.

Enright: Certainly.

Whyte: My time slip for the 29th shows the following entries in regard to this smog control matter: Telephone call from Harrison re: Criminal citation for violation of smog regulations. Telephone call from Mrs. Hallberg re: [175] Efforts being made to dismiss criminal citation for violation of smog control ordinances. Telephone call to Mr. Hallberg of Air Pollution Control District re: Citation for violation of smog ordinances."

The incident you mention is not noted on my time slip, but I recollect that some time between 4:00 and 5:00 o'clock in the afternoon I telephoned, unsuccessfully, both your office and Mr. Richman's office. I was unable to locate either one of you, and I left a word at Mr. Richman's office that he was needed as a defendant in a criminal complaint with reference to the incinerator at the Oliver Cromwell. The hearing was to be held the following day morning, February 1st, in one of the de-

(Testimony of Roy E. Hallberg.)

berg, instruct your attorney to instruct Mr. Richman or myself not to talk to Mr. Harrison concerning this matter? A. I don't recall.

Q. You discharged Mr. Harrison after this incident, didn't you?

A. It just so happened it came about after some time, yes.

Q. It just so happens you were informed Mr. Richman and I had gone out to see Mr. Harrison on the [176] Saturday, the 30th of January you knew that, didn't you?

A. I didn't know that until several days after, but I found out inadvertently or a roundabout way you had been out there.

Q. And shortly thereafter Mr. Harrison was discharged, wasn't he? A. That is true.

Q. You, I assume, relied upon the advice of your attorney—strike that.

Did your attorney advise you in any manner as to the criminal aspects of this citation issued on January 13, 1954?

A. I knew it was quite serious. I do not recall that I had any conversation with him about the criminal aspects of the situation.

Q. Are you limiting your answer, may I inquire to what you personally heard Mr. Whyte say to you, or are you including communications by Mr. Whyte to your secretary, Mrs. Hallberg?

A. I am trying to recall any of my conversations

mony of Roy E. Hallberg.)

tween the period January 27th, that is, the
f the criminal complaint being filed, and
ry 1st date of this hearing over in Municipi-
urt, as to any advice she obtained from your
y? [177] A. No.

Did you advise your attorney of the issu-
e that citation on January 13, 1954?

Yes, as far as I know I did.

Now, I have a few questions here that we
e able to clear up quite hurriedly, if you
have available to yourself your accounting.
ou have a copy of it, Mr. Hallberg?

I don't know what you are referring to, Mr.
t.

That is the accounting you filed in court
will try and locate the original.

ect your attention to page 3, line 17 through
, and to that portion of it appearing on line
ere you state:

ndered and performed by him or his agents
ying on the normal business and affairs of
rmer trust."

have that portion in mind? A. Yes.

Now, by these words, "him or his agents", do
ean that the things that were alleged to have
performed in this petition were done by the
or yourself?

A. That is correct.

(Testimony of Roy E. Hallberg.)

self, as distinguished as being performed by an agent. A. That is correct.

Q. When you took office as Receiver, either before or after your qualifying as a Receiver on December 2, 1954, you retained in your office the five managers that had been running the apartment houses, didn't you? A. I did.

Q. You hired and retained Mr. Roy Harrison?

A. I did.

Q. Who had been acting as Mr. Richman's secretary?

A. I understood he was Mr. Richman's secretary. That is all right.

Q. He took dictation quite quickly, didn't he, in your experience as a Receiver?

A. I didn't dictate to him. I wrote them up and told him what I wanted done.

Q. You would write your instructions on that it? A. Yes.

Q. In addition to Mr. Harrison, there were changes in the personnel, other than your employing Mrs. Hallberg or her rendering services with you, is that right?

A. In the office, yes, or under my control. There were other changes out in the field. [179]

Q. I am speaking now only of personnel, employees, full time employees, if I may put it that way, as distinguished from independent contractors.

mony of Roy E. Hallberg.)

But not in the managers, the five managers
ed? A. That is correct.

You didn't change those? A. No.

You took Mr. Richman's bookkeeper?

Correct.

And Mrs. Hallberg commenced assisting you,
right? A. That is correct.

Are there any other persons included in your
here, "him or his agents", than the five
ers, Mrs. Hallberg and Mr. Harrison, that
ned these things that you say you per-
? A. No other than Mr. Whyte.

Oh, yes. I take it he only went with you
to the apartments. He spent some time
hat, didn't he, about six hours, the first day,
right?

Well, I don't know now. He went with me,
80] that is true.

Did you ask him what his rate of compensa-
ould be? A. No.

As a matter of fact, Mr. Whyte is your at-
in other litigation, isn't he?

Correct.

That is, the Morgan Construction Tooth
ny litigation filed back in 1952?

He is assisting me on that, yes.

And he was not associated with O'Melveny
rs until shortly before you were appointed

(Testimony of Roy E. Hallberg.)

(The question was read.)

Mr. Whyte: Do you understand the question?

The Witness: No, I do not.

The Court: I don't, either. I wonder, in the question whether he was not associated until 1952, before the receiver started, or is it something else?

Q. (By Mr. Enright): You are familiar with the fact, are you not, that on November 30, 1952, at the time the court rendered its decision the representation was made that Mr. Whyte had not until then, very recently, been associated with O'Melveny & Myers? [181]

A. That is correct.

Q. You, after that meeting, advised the court that he was then leaving or had just left O'Melveny & Myers?

A. He had left a short while before.

Q. As a matter of fact, he had left, to your own knowledge, as early as January of 1952?

A. I don't know.

The Court: What difference does it make whether all have known Mr. Whyte around these courts for some time as being up here on behalf of O'Melveny & Myers?

What difference does it make whether he was there or with Gibson, Dunn & Crutcher or whether he was associated with you?

Of course, we wouldn't want an attorney associated with one of the parties litigants here on

mony of Roy E. Hallberg.)

Enright: Well, it is a part of the representations that were made at that time, your Honor. As he then stated, it is my understanding, that he was then associated with that firm. I would not want to investigate into the matter. That is the

Court: I understood he had been but recently associated with that firm. What you mean by "recent" is with different people and in different situations. [182]

Enright: I don't think it would make much difference to me if he had been with them two years ago or if he had been two months ago. He was at one time with that distinguished law firm.

Whyte: For the record, your Honor, I left the firm of Whyte & Myers as of January 1, 1953, having been with them for almost exactly 10 years.

Enright: Now, for the record, I will quote page 12 of November 30th transcript, line 6:

Court: What I understand he has in mind is the selection of an attorney who is about to leave

Hallberg: He has just left.

Court: —for the purpose of forming his own legal practice. What is his name, Mr. Hall-

Hallberg: John Whyte. That is W-h-y-t-e."

(Testimony of Roy E. Hallberg.)

Q. Have you any arrangements or agree with him as to his services in representing you in the Morgan Tooth Company litigation? [183]

Mr. Whyte: Objected to as completely immaterial, your Honor.

The Court: Sustained.

Mr. Enright: I understand there is a person here seeking compensation on the part of Mr. Whyte. It is relevant to that.

The Court: Why? I am not going to allow Mr. Whyte anything except for services rendered in this case.

Mr. Enright: Is the court going to consider the rates of compensation in any manner in fixing the fee?

The Court: I am going to consider what, in my conscience, these parties should have, considering the services they rendered, the importance of the assignment, whether they carried it out or whether they did not carry it out, the amount of harassment and vexation attending the duties of the position and so on.

Mr. Enright: I understand the law to be that an element in fixing attorney's fees is the rates of compensation in the community.

The Court: I don't know what that Morgan case involves, and I am not going to take what was charged for services in that case as a guide.

mony of Roy E. Hallberg.)

ve in capacities of this kind, I am more in-
d in that than I [184] am in what he received
Mr. Hallberg in some other case.

(By Mr. Enright): Now, directing your at-
tention to your petition, page 12 thereof, and to
page 33, my question is: You
did not collect the rents for the days February 26,
27, 28, 1954? A. I did not.

Is that correct? A. I did not.

And at the time you verified this petition,
you estimate and belief that the amount
was approximately \$2,000.00 that you had not col-
lected?

That is an approximate amount. It may have
been \$1,000.00, it may have been \$1,500.00, it may
have been \$2,000.00.

There was no way I could tell when that rent
was due—or, would come in.

As of February 26, 1954, or the morning
of February 27, 1954, you had been informed of
the terms and conditions of the order of this court,
had you not?

Witness: Have you got that in here, John?

Whyte: Yes. I don't find the order of this
dated February 26, 1954, in this file. If I may
look at my own file, I think I can locate it.

Court: Counsel, we haven't finished that

(Testimony of Roy E. Hallberg.)

row, and I will probably be through by 10:15 o'clock.

I think it would be safer if we figured on getting here at 11:00. We will begin this case tomorrow at 11:00 o'clock. Please let's not try to make a case out of it. It is the sort of thing that should have been handled over by now. It is the sort of thing that is customarily handled on a Monday motion calendar.

I know there are several issues here. I have not heard anything about the search you will want to make yet, and that seems to me to be the most important thing.

Mr. Enright: Could I ask a question then?

Q. (By Mr. Enright): How much compensation do you personally feel you should receive for Hallberg?

A. Well, in my petition I am leaving that matter entirely up to the court.

Mr. Enright: This, we understand, your Honor says. They won't state, in accordance with the court's ruling. They have asked us to defend against what might be reasonable.

We have to get all the facts out. If they don't tell us what his time is worth, there is nothing we can do but develop all the facts.

The Court: We will stand in recess until 12 o'clock [186] tomorrow morning.

(Whereupon, at 12:00 o'clock noon, The Court adjourns.)

ROY E. HALLBERG

as a witness on his own behalf, having been
sly duly sworn, resumed the stand, and tes-
urther as follows:

Cross Examination—(Continued)

(By Mr. Enright): Mr. Hallberg, I have
to be placed before you the original order
court bearing date February 26, 1954. Do
e that document?

I didn't hear your question.

You have the document before you?

Yes, I have the document; I have the docu-
zes.

Bearing in mind that is February 26, 1954,
ou advised by your attorney on February 25,
hat the plaintiffs and the defendants in the
ction had arrived at a settlement?

I had a conversation on that particular date
ng a conference that you were going to have
lowing day in court.

That is right. Concerning the subject matter
lement between the plaintiffs and the de-
ts?

I don't know what the subject matter was.
just a conference you were leaving here.

On the following day or on February 26th,
ou informed by Mr. Whyte, your attorney,

(Testimony of Roy E. Hallberg.)

Q. Yes. And at that time were you advising your attorney that the court had made the order of February 26, 1954, relieving you of your duties of management?

A. That is correct.

Q. Of the five apartments, or the trustee at that time?

A. Yes.

Q. Did your attorney also inform you that you were to only retain the money in the bank and not under your control?

A. I believe he did.

Q. Did he also inform you that the order was to be effective at 5:00 p.m. on Sunday, February 22, 1954?

A. I don't recall that.

Q. Well, do you recollect that you were to retain control of the whole property and all the money until Sunday evening, or 5:00 o'clock, Sunday, February 28th?

A. I don't recall that. The only thing I remember was that the receivership was being terminated and that came to me Friday night.

Q. Did you read that order there that is before you? I mean a copy of it, of course, the February 26, 1954 order?

A. I read it later, yes. [190]

Q. Did your attorney read it to you on February 26th, when you had a conversation with him in the evening?

A. I don't recall his having read it ver-

mony of Roy E. Hallberg.)

He gave me the sum and substance of it.

Now, directing your attention to your first
al report and petition for allowance of fees,
desire the original, or is there a copy avail-

I have a copy in here (Indicating).

You have already testified concerning the
00 figure shown on page 12 of the petition,
the receipts for the days of February 26,
28, 1954?

That was an approximate—it was an esti-
It isn't factual.

Well, it is your best judgment when you veri-
e petition? A. That is correct.

And based upon your acting as receiver in
atter, have you made an audit since then to
in the amount or done anything?

No.

Now, directing your attention to Schedule B,
t page thereof, you will note that there is
the column, "Imprest Petty Cash" \$785.00,
correct? [191] A. That is correct.

Now, as of February 26, 27, and as of 5:00
p.m., February 28, 1954, there was \$785.00
y cash, wasn't there, in the hands of your
or yourself as Receiver?

Not necessarily—

(Testimony of Roy E. Hallberg.)

on hand at each building for them to pay out-of-pocket expenses.

Q. When you use the pronoun "them" mean your managers or the managers in each building?

A. I am referring to the buildings that amounts are credited to.

Q. But it would be the manager of each of the buildings? A. That is correct.

Q. And they were your agents, were they?

A. That is correct.

Q. That \$785.00 was under your control?

A. That is correct.

Q. You did not take possession of that \$785.00, you left it with the managers, is that correct?

A. That is correct. For one reason. That reason [192] being that that was a part of their work on the properties of the building.

Q. So far as you know, Mr. Hallberg, the plaintiff, Lyda Tidwell or her agent, Mr. Udall, or one of her agents, still have that \$785.00, is that right?

A. So far as I know, yes. They have what represents \$785.00; either cash or receipts.

The Court: How did they get it?

The Witness: That was left in the building. The money was left in the building. There was an audit made of it. In the operation of the building

mony of Roy E. Hallberg.)

at money for cashing checks, and things like

(By Mr. Enright): As a matter of fact, you
Mr. Hallberg, during the weekend of Friday,
ary 26th, through Sunday, February 28th,
out checks on the receivership account, to
up the amount of money that these managers
equal \$785.00? A. That is correct.

You actually issued checks upon the receiv-
account?

That is correct. However, they may have still
ut that before the end of the month.

Of course. I am only making a point that
[193] is \$785.00 under your control that can
ounted for.

Enright: Insofar as the rights of Lyda Tid-
nd Frederick Richman are concerned, it is a
against her that I feel this evidence clearly

Court: She got that amount of money or
imately that amount of money, which had
n, as I understand this witness, that he left
apartment houses when he surrendered them,
e he considered it part of operating cash in
awer.

Enright: I appreciate that is what he con-
l it.

(Testimony of Roy E. Hallberg.)

the stipulation upon which it was based, that he to retain control of monies in bank and all monies under his control; and this is \$785.00 he did retain.

Mr. Powsner: At this point I think that I shall object for the record to this line of testimony so much for the purpose of excluding it from the record, but simply to register plaintiffs' point of view, that the several items, many of the items claimed as surchargeable amounts against the receiver, are actually in dispute between the plaintiffs and defendants.

As Mr. Enright said he thinks this evidence establishes a charge against the plaintiff, not Hallberg, I think it [194] should be kept in the record. These are items in dispute, which are to be determined in a subsequent proceeding, I believe a trial set for June 18th, and I don't think they are to be determined or to be assessed against Hallberg in this proceeding, any of these items.

There are several items, whether or not they were paid out in violation of the order, the point is whether there is a benefit, if there is a benefit, has it accrued to the plaintiff or to the defendant. And it is a matter of dispute between them, as to the amount of the funds to be divided between them, and as to who is to be surcharged for these various items. I don't think it is material to surcharging Mr. J.

mony of Roy E. Hallberg.)

(By Mr. Enright): Now, directing your attention, Mr. Hallberg, to Exhibit IV-2 of your rule B, I call to your attention under the column "Other" the amounts of money as being "Mortgage Payment-Interest" \$627.72 and principal, \$399.53.

These two amounts total \$2,027.25 and represent the payment to the holder of the note secured by the deed upon the Oliver Cromwell Apartments, is that correct? A. That is correct.

Now, the payment was due and payable on January 1, 1954, is that correct? [195]

That is correct.

Now, you paid that by check dated February 1, 1954, did you not?

That is correct.

It was received by the payee in March?

That is correct; should have been received

It was mailed that day.

We could quickly ascertain it.

The stamp on there doesn't necessarily mean it was received that day. It may have been held a day or two before it was deposited in the bank.

Yes. But the previous payments you had made on this encumbrance you didn't pay—in the month of January you paid on a check issued January 1, 1954.

(Testimony of Roy E. Hallberg.)

Q. Would you like to see your statements on bank balances?

A. I know what they are.

Q. I will show them to you and see how long they were.

The Court: I am getting lost, Mr. Enright. what are you trying to prove now? I am off path.

Mr. Enright: Well, perhaps it is collateral. [196] witness is volunteering his reason for having paid the money.

The basic point involved is this: That there were Two Thousand Twenty-Seven Dollars and I think it is Twenty-Five Cents, whatever that exact amount is, that was paid out by the Receiver after a court order of February 26th, and that, too, is a sum of money which is paid to the holder of an encumbrance upon the Oliver Cromwell, being a payment due in March, and Lyda Tidwell has received the full benefit of that Two Thousand dollars out of this fund.

It, therefore, will be our position that, one, the Receiver violated the court order of February 26th, and, two, when and if issue is joined involving a dispute between Lyda Tidwell and Frederick Tidwell, under their contract of settlement dated February 1954, that they will have to settle their difference out of the balance of the money on hand.

mony of Roy E. Hallberg.)

Enright: Yes, your Honor, that is the defect of it.

Court: And then there is a question then whether Mr. Hallberg violated the court order regarding it.

Enright: Yes, your Honor. May I call it to the negligence on the part of Mr. Hallberg or advisers in not properly advising him concerning paying of that [197] money. That will be sufficient.

Whyte: If I may say something for just a moment.

Court: I had gotten out of orientation to the testimony, and I asked counsel to direct my attention to the particular issue which he has done. Do you want to direct it further?

Whyte: I wanted to correct a misstatement by Mr. Enright, that this money was paid out after the court order became effective.

Hallberg was relieved of his duties of active management as Receiver at 5:00 o'clock p.m. on the evening, February 28th.

check, which has just been presented to him, issued before that date, which conclusively answers any allegation that he paid it out in violation of the court order.

(Testimony of Roy E. Hallberg.)

Mr. Whyte: That was due on the 1st of M
The facts are undisputed on that.

The Witness: I wonder if, your Honor, I
make a statement here?

The Court: No.

Q. (By Mr. Enright): Now, as to your d
as pointed out by Mr. White, to have monies o
encumbrance there on [198] their due date,
your attention to this check No. 204 dated D
ber 31, 1953, and ask you to examine the ti
cleared, as to—and then tell us when you m
that check in?

A. Again I can't tell you exactly when thi
mailed. I have no way of telling. The check
made out on that date and I have no way of t
how long the recipient of the check held it b
depositing it.

Q. You do know, don't you, Mr. Hallberg
check was dated back to December 31st and
paid about the middle of January?

A. There is no way I can tell at this time.

Mr. Enright: I will develop it by another
ness.

Q. (By Mr. Enright): Now, directing you
tention, Mr. Hallberg, to your Schedule D,
an itemization of the creditors, you have the
of "Frederick I. Richman, Management Fe
November 1953 in amount claimed" in the ar

mony of Roy E. Hallberg.)

after you became Receiver, weren't you?

There never has been any bill sent to me, communication as to the amount Mr. Richman paid for services rendered. Had I received that I would have turned it over to the court for them, as to payment to be made. [199]

My question was, were you informed?

No.

You did not have a conversation with Mr. Richman at the time you took over the records?

He told me what he had been getting, but never asked me for any of this money. That I picked up here as more or less a contingent lia-

Now, directing your attention to the top of page C, where you state, "Disbursements Made by Receiver as Directed by the Court", as I understand this, Mr. Hallberg, you and Mr. Whyte went to a game of golf on a Sunday, March 7, 1954, and the evening you called Judge Tolin, is that correct?

A. That is correct.

Now, did you inform Judge Tolin of the nature of these operating expenses or bills that you itemized here, that you have disbursed?

I believe I did.

Now, Mr. Whyte was there during the phone conversation? A. He was.

(Testimony of Roy E. Hallberg.)

A. I don't actually recall. However, I do that [200] I paid—we accumulated all these and I wanted to find out whether they should be paid.

Q. I appreciate your wanting to pay them. I am only concerned with this question: Did you or did you not at that time inform Judge Tolin that there was a dispute between Martin, Harold Camusi, representing the plaintiff, and Joseph Whyte, representing the defendant, concerning the payment of these bills?

A. I don't recall the conversation, but this must have been—there must have been some question in my mind in calling for instructions.

Q. Did Mr. Whyte also talk to Judge Tolin at that time? A. He did.

Q. You were present during the conversation in so far as you could hear what Mr. Whyte was to say?

A. I heard one-half of the conversation.

Q. Did you hear him advise Judge Tolin that there was a dispute between the attorneys representing the respective parties concerning the payment of these bills?

A. I can't recall the conversation now.

Q. So far as you know, no attempt was made by yourself, as Receiver, or by your agent, or by any attorney, to communicate with myself, Mr. En-

mony of Roy E. Hallberg.)

Whyte: Will you read it?

Enright: Read the question.

(The question was read.)

(By Mr. Enright): Is that clear, Mr. Hall-

Whyte: As to what this man knows thatorney did, he hasn't any way of knowingr I communicated with you or not.

going to object to the question in so far as itm for what action I took. I am the best witness to that. That was done out of his presence.

Enright: I am not asking for what you did. asking for his knowledge as Receiver at this

Witness: I can't recall.

(By Mr. Enright): You did pay out \$6,121.40 result of this—after that telephone call, as on the schedules?

That is correct.

Now, did Mr. Udall direct the managers ofartment houses, which managers had beenly employed by you, until 5:00 o'clock Feb-28, 1954, not to pay the weekend collectionsimating \$2,000.00 to you?

He didn't tell me that, to me.

No. Relate what you know on that subject, so we can expedite this, if we can.

(Testimony of Roy E. Hallberg.)

Q. And to pay the money to him?

A. And the inference was to pay it to him. I did not collect over the weekend and there was a good reason for it. In the first place, picked up the ready cash——

Mr. Whyte: Mr. Hallberg, you have answered the question.

The Witness: Thank you.

Q. (By Mr. Enright): You were informed of this by Mrs. Hallberg, is that correct?

A. That is correct.

Q. When were you informed of that instruction given by Mr. Udall? A. Monday.

Q. Now to revert back to this phone conversation on March 7, 1954. I assume you felt you knew Judge Tolin sufficiently well over the years or a period of time you could call him on the phone for instructions, is that it?

A. Well, I felt that inasmuch as I was working in conjunction with the court I had a right to pick up for further instructions.

Q. You had known Judge Tolin since the time you had moved on Glen Summer Road?

A. Known him casually, yes.

Q. He lived in the same block as you did on Glen [203] Summer Road? A. That is right.

mony of Roy E. Hallberg.)

I am quite sure that is the exact amount.

you received any refund on that deposit?

I imagine the records will show whether a
came in.

It isn't shown in your accounting, I am sure,
Hallberg.

Have you done anything since filing the account-
concerning that refund?

I think you will find it in there.

Will you point it out then, if you think I will
there.

I haven't the books here.

The books of the receivership are here. Are
familiar with them? A. Yes.

Point out——

Whyte: Why don't you show him the items?

Enright: I am not that much of a book-

Court: Mr. Enright says it isn't there, as I
stand. I understand you to say you can't find it.

Enright: Not in the accounting I can't find
I can trace some refund——

Court: Let's have him do it during the re-
and conserve the court time.

Enright: Yes, I think that is more expe-

(By Mr. Enright): Now, again directing

(Testimony of Roy E. Hallberg.)

A. I believe I have them here, yes.

Q. Will you tell us what the amounts are?

A. The one I have here——

Q. What column? A. Sir?

Mr. Enright: Will you read the question, Reporter?

(The record was read.)

Q. (By Mr. Enright): If you do not understand the accounting, I would appreciate your saying so, the mechanics of it; I would appreciate your stating so.

And I would further appreciate it if you would not aid the witness in ascertaining amounts.

A. If you will look on the large page under column "Office" you see an amount of \$450.00 first item.

Q. Yes. Any other item?

A. It will be included in your disbursement [205] February, under operating \$600.00, in the

Q. How about December?

A. You will find it under "Office"——

Q. What page?

A. Two pages prior to the large one. You find an item there of \$500.84, I believe you find covers——

Mr. Whyte: May the record show that the witness is now referring to the third page of Schedule E

mony of Roy E. Hallberg.)

Now, Mr. Hallberg, when you were appointed
r and within the two or three days after
appointment, and I assume December 2nd as
ate of appointment,—we had better go back
ember 1st—that was the day, I think you
found to some of the apartment houses.

g the first three days, did you introduce
to the managers as being your agent?

Yes.

What did you tell the managers?

I introduced Miss Cosgrove.

What did you tell the managers?

I told them she was going to act for me.

In the——

In the management, yes. And anything she
[206] would be under my instructions, and
re to follow it.

You did not later inform the managers that
Cosgrove was your wife, did you?

I didn't see it was necessary, for the simple
that she preferred acting as Miss Cosgrove.

You did not inform Judge Tolin you in-
to delegate your operation of these five
ent houses to your wife, did you?

I did not inform him that I was going to
y assistance, or, in fact, we had no conver-
about the assistance I was going to require.

(Testimony of Roy E. Hallberg.)

the Receiver by receiving reports from Miss Cosgrove?

Mr. Whyte: Oh, objected to as going far beyond the evidence adduced here. The witness has testified as to what he did.

His own personal activities, as to a Receiver, went far beyond receiving reports from Miss Cosgrove or Mrs. Hallberg. It assumes facts completely contrary to the facts.

The Court: Overruled.

Q. (By Mr. Enright): You did, in fact, rely upon Mrs. Hallberg, especially—or, commencing December 1953, rely upon Miss [207] Cosgrove in performing activities involved in the management of five apartment houses?

A. I didn't hear everything you said the last time.

Mr. Enright: Read the question.

(The question was read.)

The Witness: I relied on some of her activities that is true.

Q. (By Mr. Enright): Actually, the proper method of operation was that commencing December 7th and all through February 28th, and you would make trips up to Los Angeles on the weekends or come up Friday night after completing work for the County of Orange, isn't that correct?

A. I came up during the week. I came up during the week.

mony of Roy E. Hallberg.)

During the week I was there on various oc-

During the week you would receive reports you got home from Miss Cosgrove, as to the events during the day?

Sometimes I did.

Now, Exhibit B, that is your little diary, is right? It records the principal problems you met each day as they arose during your activities as far as they were in this matter?

I think I explained that book to you at the [208] I presented it to you, that it is a composite of the various activities up to a certain point. It does not include everything, every little conversation, every person we talked to, but as an overview of various things we considered important enough to write down.

The important and principal problems you have recorded here, are they not?

For the most part.

Which ones are not then?

I can't tell you now.

Did you consider the refrigeration problem at Western Arms an important problem?

I did, and I was there.

When were you there?

I was there.

(Testimony of Roy E. Hallberg.)

Q. And was that the day of the breakdown?

A. No, it was two days following, and it was running perfectly.

Q. In fact, it was two days later, after the breakdown, that you got there, wasn't it?

A. After all, it was a question of having the machine in operation—— [209]

The Court: Mr. Hallberg, the question should be answered yes or no. Then if it is necessary to explain it, you may do so.

The Witness: Will you state the question again?

Mr. Enright: Read it, please, Miss Reporter.

(The question was read.)

The Witness: Yes.

Mr. Whyte: You wish to explain your answer to Mr. Hallberg?

The Witness: I do. We had the original tractor, the original refrigeration contractor in the office. I talked with him and I was a little concerned about his knowledge of refrigeration. It happened to be the California Refrigeration Company.

I also talked with the Normandie Refrigeration Company, who had apparently much more experience. And the words were given to Mr.—given to the Normandie Refrigeration to finish up the job and save some upon it.

Q. Are you through with your explanation?

mony of Roy E. Hallberg.)

lapsed, from the time the emergency arose
the time you arrived there?

Witness: It is pretty hard at this time to
I do know I went in there and as far as the
work on the unit was concerned, the men
more capable than I was [210] of doing the
ed amount of repair; my being there wouldn't
elped any.

Court: How long after the emergency first
before you talked to any refrigeration men
t?

Witness: I talked to them on the telephone
xt day.

Court: Did the emergency arise in the
me?

Witness: It did.

Court: What time of day did you hear
t?

Witness: I heard about it late that after-
The managers had certain contractors they
t liberty to call for emergency work. And
rigration they were to call the California
eration Company.

n they got on the job they worked during
y and had repeated phone calls with their
which was overheard by the manager and
to the manager the men didn't know what

(Testimony of Roy E. Hallberg.)

answer, that the men didn't know what they were doing?

The Court: No. He said it proved to the mind of the manager that the men didn't.

Mr. Enright: The manager, I see.

The Court: He is talking about the state of mind of the [211] manager as she communicated it to him, as I understand it.

Is that right?

The Witness: Yes.

The Court: Then you first came into the station after the resident manager gave up, is that right?

The Witness: That is right.

The Court: How long after you got that information from the resident manager before you did anything?

The Witness: She had contacted another refrigeration company, knowing it was quite vital to get immediate service on the refrigeration. And I think actually her calling as soon as she did contact another refrigeration company was quite in line with her duties, because of the fact that she had a company already on file that she could call in an emergency. And the man who she did call at that time worked for the same company.

The Court: Well, the question, though, was how long after you were told that she was dissatisfied

mony of Roy E. Hallberg.)

Court: Before noon?

Witness: Yes.

Court: Before 10:00 o'clock?

Witness: At this moment I would say before noon. [212]

Court: 12:00 o'clock. Mr. Enright, I don't want to shortchange you, but we had better take a recess. We can convene at 1:30, if you like.

Enright: Whatever is the convenience of the court.

Court: 1:30.

(Whereupon, recess was taken at 12:00 o'clock p.m., Friday, May 14, 1954, to 1:30 o'clock p.m. of the same day.) [213]

ROY E. HALLBERG

as a witness on his own behalf, having been previously duly sworn, resumed the stand, and testified further as follows:

Cross Examination—(Continued)

(By Mr. Enright): Mr. Hallberg, before the recess we were discussing the subject matter of the refrigeration failure at the Western Arms.

Enright: May I inquire if the court has ruled on his questions?

(Testimony of Roy E. Hallberg.)

or made up in the evenings at your home, is right? A. May I have my——

Mr. Whyte: May the witness refresh his recollection?

Mr. Enright: If I may step up next to the witness, I will use my copy.

The Court: Surely.

Q. (By Mr. Enright): Now, directing your attention to your notations made for Friday, February 19, 1954, you made the entry, "to W. A. Refrigeration. John Dougherty", is [214] that correct? You made that entry on that date?

A. I made that entry, yes.

Q. Now, the only other entry you made in your diary concerning this refrigeration problem was one made on February 22nd, where you entered "Switched to Normandie Refrigeration at W. A." meaning Western Arms?

A. That is correct, yes.

Q. Those are the only two entries you made?

A. That is correct.

Q. In your diary?

A. That is correct.

Mr. Whyte: Did you check that, Mr. Hallberg?

The Witness: Yes.

Mr. Whyte: All those intervening days?

Mr. Enright: I will represent to the court that I have checked them and I found no other entries.

mony of Roy E. Hallberg.)

Witness: As far as I recall, those are the entries.

(By Mr. Enright): February 22nd was a day, was it not, so far as the County of Orange is concerned? A. Yes.

Now, where were you during the period from Saturday 16th to Friday, the 19th, if you know? It is pretty hard to tell you now.

Were you available at your home phone number, Corona del Mar? A. Oh, yes.

You were available there?

Not during the day, probably, but at night definitely.

Did your agent, Mrs. Hallberg, report to you on the 16th, 17th or 18th that the refrigeration had a failure in the Western Arms Apart-

At this time, no, because the refrigeration company would have automatically been

When the refrigeration of these 406 apartment houses is a matter of automatic attention on the part of the managers, is it so far as you as Receiver were concerned? I don't believe you mean exactly as you mean it there.

You did not attend to this refrigeration

(Testimony of Roy E. Hallberg.)

no knowledge of any problem on the refrigerator during that period of time, February 16th through 19th, in the evening, [216] Friday evening, February 19th? A. I was available.

Q. My question was, was your knowledge of the problem as Receiver. You didn't even know there was a problem, did you, during that period?

A. I do not believe it had been reported. However, I cannot recall exactly because there is no mention in my diary here.

Q. And now, you stated before recess that you did come to Los Angeles during the period December 7th to February 28th on workdays, Monday through Friday?

A. I was through at times.

Q. The only times you did come to Los Angeles during the work hours of the day, 8:00 in the morning to 5:00 in the evening, was on the occasion that your petition for authority to renovate the apartments was heard in this court in an afternoon session in December, isn't that correct?

A. That is not correct.

Q. The only other time you came to Los Angeles was the time you appeared over at the City Engineer's Office of the City of Los Angeles at approximately 4:00 o'clock in the afternoon on the smog complaint? A. No.

Q. What other times did you come to Los Angeles?

mony of Roy E. Hallberg.)

I stated previously that there were times I
n during the week.

On Friday afternoon late?

During the week; not on Friday.

Show me in your notes here any entry that
ve made as to a trip you made to town here
the day——

I have no entries there at all showing I made
ps or that I didn't make any trips.

In all the entries in these notes here usually
rds "made the rounds" merely means that
Hallberg went to the apartments and picked
monies, isn't that right?

Not necessarily.

Court: Would it ever mean that?

Witness: Occasionally it would.

Court: What else would it mean?

Witness: It would mean that I probably
n and made a fast turn of the apartments.
(By Mr. Enright): Did you see the man-
when you did that?

Occasionally I did; quite often I didn't.

Wouldn't you want to know from your man-
what the problems were and how they were
along with these 60 and 80 and 50-unit
ents? [218]

If there were any problems I am quite sure

(Testimony of Roy E. Hallberg.)

five apartment houses during the work week
that correct? A. No.

Q. I direct your attention to your deposition page 89, line 25, to page 90, line 19. When you completed reading it, please advise me.

A. I think the——

Mr. Whyte: There is no question before the house, Mr. Hallberg.

Q. (By Mr. Enright): Did you on April 19, 1954, testify as follows concerning this matter:

“Q. Well, generally, didn’t you do your work on the operation of these apartments on weekends, Mr. Hallberg?”

“A. I did this, done that.”

A. That isn’t what I said.

Q. (Continuing reading:)

“Q. I mean, that was the rule, wasn’t it?”

“A. Not necessarily.

“Q. You’d come in on weekends, Saturday and Sundays?”

“A. Not necessarily. I came in during the week some evenings.”

Mr. Whyte: Mr. Enright, may I interrupt you whether you are reading from the original or the corrected deposition?

Mr. Enright: I am reading from the deposition as handed to me by the reporter.

mony of Roy E. Hallberg.)

Enright: I will read the portion as given in deposition and then read it as he corrected it. The record will be complete.

You'd come in on weekends, Saturdays and Sundays?

Not necessarily. I came in during the week evenings.

Some evenings during the week?

Yes.

But not during the daytime very frequently?

I have—was in during the day at times.

Approximately how many times during the week?

“A. I don't recall now.

Now, you were busy during the day working in the County of Orange, weren't you; that is, on week days, Monday through Saturday, or on Friday night?

Friday nights I made it a point to get in the County and stayed around all day Saturday, and was there on occasion on Sunday.”

Whyte: May the record show what Mr. Enright has read is the deposition copy received by the reporter and not corrected by the reporter on the original?

Enright: I will complete it, sir.

(By Mr. Enright): Now, Mr. Hallberg, do

(Testimony of Roy E. Hallberg.)

Q. All right. Then you did correct page 90, 5 to 7, to read as follows:

“Q. You’d come in on weekends, Saturdays Sundays?

“A. Not necessarily. I came in during the some evenings,”

and you wish to add on to that “as well as da is that correct? A. That is correct.

Q. Now, what other days, other than the that you appeared over at the City Prosecu office on the smog control complaint and the you appeared before his Honor of this cour your petition for authority to renovate those a ments, what other days did you come in? [221]

A. I believe I stated at the time that I cou tell you the exact days, but there were many that I came in.

Q. Now, you referred in your direct testi to negotiating some insurance. Didn’t Mrs. berg attend to most of those negotiations?

A. I was in the office on two occasions. He me at my office on one occasion. Mrs. Hallberg contacted Mr. Dulley, the broker.

Q. You met Mr. Dulley twice, and he wa your office once? A. Yes.

Mr. Harrison worked from Monday through day as an employee of yours, didn’t he?

A. That is correct.

mony of Roy E. Hallberg.)

Is it your testimony you set up a new system of keeping the records of the administration of these properties? A. I did.

And you gave your directions to Mr. Harri-
writing, did you?

I gave some instructions to him, yes, not all.

Enright: May I have these four sheets of
marked for identification next in order?

Clerk: Defendants' C for identification.

(The documents referred to were marked De-
ndants' Exhibit C for identification.)

(By Mr. Enright): Mr. Hallberg, I present
Exhibit C for identification and then ask
to examine all three of these sheets of paper
to state whether or not they are in your hand-
writing?

Whyte: Can you answer that question, Mr.
Hallberg?

Witness: What was the question?

(The question was read.)

Witness: They are in my handwriting, with
exception——

(By Mr. Enright): Yes, go ahead and
state.

This, I don't know (indicating); that is
hand. I don't know what that is.

The shorthand writing appearing on one of

(Testimony of Roy E. Hallberg.)

Q. (By Mr. Enright): Now, the sheet identification constitutes your instructions to Harrison to prepare the new set of books?

A. No, those were not instructions to prepare a set [223] of books. Those were instructions what I wanted to get and we were going to go down and work it out, because a bookkeeper has been accustomed to one method sometimes it a little difficult to jump to a completely different set of books.

Q. Do you base your answer on how bookkeepers operate on your training at Northwestern, back in the '20's, and your approximate one year work with the books pertaining to a bondholder's title to possession of property in Chicago in 1931?

A. As a matter of fact, information you gave on methods is not lost.

Q. You didn't lose your knowledge about it back in the '20's at Northwestern?

A. No, sir. I still think——

Q. I appreciate you do.

The Court: Have you ever done anything in bookkeeping since then?

The Witness: I have done it quite often myself or Morgan Construction Tooth Company and even I was an auditor appraising——when I was an auditor appraising, I worked with the books.

Q. (By Mr. Enright): Morgan Construction

mony of Roy E. Hallberg.)

At that time you went into and examined Morgan [224] Construction Tooth Company's books, did you not, in May and June of 1951?

No.

You did not?

No, because there were no books.

There were no books? A. No.

Do I understand you correctly to state that in Construction Tooth Company, a corporation, there were no books during the months of May and June of 1951?

You recall I testified that a public accountant was brought in there to bring those records up to date?

Well, what records was he bringing up to date? Were there books he was bringing up to date? The books and the records, yes.

And you with the public accountant brought the records up to date, did you?

I wasn't concerned with the past.

You were not?

Not at that point. I was keeping the records up to date and making the entries, the current entries.

After you went with Morgan Construction Company in June, is that right, May or June,—

June, yes.

(Testimony of Roy E. Hallberg.)

Q. You did that each month during through December of 1951? A. Yes.

Q. So you did have six months there of ing of books involving the sale of a tooth to up on the end of a boom shovel or earth m equipment, is that it?

A. It was not quite technically correct, bu

Q. Very close, though, isn't it? Isn't that

A. It is close enough.

Q. So these are the type of instruction gave or prepared over the weekends when you in Los Angeles and left for Mr. Harrison you

A. It doesn't necessarily mean it was pre over the weekend; they are not dated.

Q. I know that. But they are the type structions you left for Mr. Harrison?

A. That was for, information, as I exp before, so that we could get books together an he would be able to work with.

Q. You did not prepare a report as to ceiver within the 30 days after your appoint as provided by the [226] rules of this cour

Mr. Whyte: Objected to as calling for a conclusion from a lay witness.

Q. (By Mr. Enright): Did you prepare port within the 30 days commencing Decem 1953?

Mr. Whyte: Objected to as immaterial.

mony of Roy E. Hallberg.)

Court: Sustained.

Enright: I wish to prove through this witness and make offer of proof that he failed to fulfill his duties as Receiver in preparing a report as required by the rules of this court, which are that the Receiver submit his report within 30 days after appointment.

Court: All right. That is what you want to first ask him that.

Enright: I will take notice of what is in our records and see if it is or is not there.

Enright: All right.

(By Mr. Enright): Then I will ask you: Did you prepare a report within the 30 days after you were appointed Receiver?

Enright: We started to prepare a report and it wasn't ready. [227]

Enright: Now, I move to strike "it wasn't ready."

Court: That part of the answer will go out.

(By Mr. Enright): You started to prepare a report, didn't you, Mr. Hallberg, and you found the records were not complete, isn't that true?

Enright: No.

Enright: You had Mr. Whyte come out and instructed Garrison to get the report prepared, also?

Enright: We had to find out what information was

(Testimony of Roy E. Hallberg.)

Q. Yes. And approximately a week or so then an order was made by this court extending the time within which to make the report, that right? A. That is correct.

Q. Did you represent to Judge Tolin, before your appointment on December 2, 1953, that you had for some years been associated with professional management operation in Chicago? I call your attention to the word "years".

A. I believe I mentioned the fact that I had professional experience that extended over a period of time in Chicago.

Q. You did make the representation to Judge Tolin that you had for years had this experience, as I just stated [228] it, before you were appointed?

I would appreciate a yes or no answer, and you may explain it in any manner you want.

Mr. Whyte: I am going to request the transcript be shown to the witness. The transcript is the evidence of what he said to Judge Tolin. I request he be shown the transcript.

The Court: Mr. Whyte, he is inquiring about what he told me before there ever was a transcript. At least, I am assuming he is. If I hadn't had knowledge of your client he never would have been ten in here to make a transcript, so the objection is overruled.

mony of Roy E. Hallberg.)

When the approximate time, place, persons present with respect to this conversation.

He wants to lay a foundation, let him do it fully here, so that the witness is acquainted with the conversation he has in mind.

Court: Of course, we are not seeking to embarrass a man now. We are undertaking to fix a commission after he has completed his services. I don't think that is worth laboring too much, what the circumstances were in his getting the employment—
[229]

Whyte: Then I will add the objection of irrelevancy, your Honor.

Court: No, it is material and it is proper. It should be considered here.

Now we have taken a tremendous lot of time with it, we don't think it is worth a whole lot of time.

Witness: The question, you are asking me to recall a fact that is awfully hard to recall. The fact is that I handled properties extending over one, possibly two different years, and the term "years" is a vague term——

(By Mr. Enright): Would you please answer the question, after you are through with your examination, whether it is yes or no, your answer?

Well, the question, you can't answer it yes

(Testimony of Roy E. Hallberg.)

Mr. Enright: My inquiry is what representations were made to this court before his appointment. The doctrine of unclean hands, that has application to every proceeding in equity. I would desire to lay this foundation, that this man's hands are not clean.

I will proceed to another question.

Q. (By Mr. Enright): Did you represent Judge Tolin, before your appointment as receiver, that you had been [230] engaged in managing property for elderly relatives in this area?

A. I don't know that I made any such statement.

Q. Would you say that you did not make a representation to Judge Tolin?

A. I wasn't managing properties for a relative here.

Q. I appreciate that, sir. But I want to know what you represented to this court, and I would like to have your answer.

A. I think the answer has already been given to you in the deposition.

Q. What did you tell Judge Tolin concerning managing property for elderly relatives?

A. I don't know that I told him anything about elderly relatives.

Mr. Enright: You see, your Honor, I am in a predicament: This is what I anticipated would happen when I filed a petition concerning your Honor's qualifications.

mony of Roy E. Hallberg.)

don't know if you know how Receivers are appointed in this court generally, Mr. Enright.

I had a case the other day and one of the other judges said, when he happened to be at a place where some of the judges were together, he said, "any of you fellows know [231] anyone that would be good at running a certain kind of business?" And he named it.

He said, "I thought of asking so-and-so," and he named a well-known attorney. He said, "I knew he was doing a business of that kind. I telephoned him but he isn't available."

Now we get suggestions from things that we have heard, as a matter of common community knowledge about people, and then we follow them up; we make further inquiry.

No further inquiry was made here on the record. My impression at the time that I asked Mr. Hallberg to come in was that he had been operating a apartment house in Pasadena or South Pasadena for an elderly relative.

It turns out, on the hearing now, he owned the apartment house and the elderly relative was probably working for him.

Enright: I appreciate that, but——

Court: I don't see it makes much difference. The thing is that he had had acquaintance to that

(Testimony of Roy E. Hallberg.)

record that this witness, this Receiver, did misrepresentations to the court, and the court upon them and made the appointment. That predicament I am in.

I will apparently have to call the court as a witness as [232] to what he did or didn't say to

The Court: You can't call the court on that subject. We are not going into it any further. closed.

Mr. Enright: I will desire to complete this here:

Q. (By Mr. Enright): Did you represent Judge Tolin that you had managed apartments for elderly relatives who have considerable apartment property in southern California?

Mr. Whyte: Objected to as immaterial; all asked and answered.

The Court: Sustained on the ground it has asked and answered.

Mr. Enright: I will point out the amount of properties involved in this last question, that was not involved in the previous question.

Q. (By Mr. Enright): Did you represent to the court before your appointment, that your vocation for some years, was the management of real property?

A. I believe I mentioned to the court that I handled and managed properties.

mony of Roy E. Hallberg.)

ed, and I take it that is a direction to me not
sue this subject matter.

Court: It is a direction to you to not go
r into what led me to call Mr. Hallberg in
nd present [233] himself for questioning at
ne that he was appointed.

se Receivers do not in this court,—they might
bankruptcy side, but in this court generally
receivers are not people that come around
g representations and asking for these ap-
ents. They are people whom the judges seek
nd it is looked upon with not a very kindly
hen we seek out people whom we consider
ed, to come in here and try the judge and
ceiver on the basis of bad faith in the repre-
ons.

Enright: I appreciate your Honor's state-
but I desire to develop that after this man
ught out by your Honor he then made the
entations which are not true and the repre-
ons resulted——

Court: You may question him all you want
the representations he made on the record
ve called him in here for further examination
nsel and inquiry by the court.

y, all you want to. I hope you will not take
arpoon at it

(Testimony of Roy E. Hallberg.)

you are wasting time. You are one of the most intelligent men whom I know.

Mr. Enright: Thank you, your Honor. [2]

Q. (By Mr. Enright): Did you represent Judge Tolin and the parties assembled in the chambers of Judge Tolin on November 30, 1953, whose main vocation for some years was in the management of real property?

Mr. Whyte: Before you answer, Mr. Hallberg, the counsel is questioning you with reference to a written document, and I am going to request that the writing be placed before you.

The Court: If you are questioning him with respect to things set on the record, he should be shown the record.

Q. (By Mr. Enright): I direct your attention to the transcript of November 30, 1953, pages 5 and 6, reading as follows:

“* * * that your main vocation for some years was in the management of real properties, * * *

A. That is correct. During the years that I managed those properties.

Q. And the years you are referring to are from the year 1931 in Chicago?

A. And '32. It will extend over into '32.

Q. Your acquiring a residence on Glen Street, South Road in 1947 and living there until 1952, that was your residence, two residences on that street?

mony of Roy E. Hallberg.)

And one apartment house here on Fair Oaks?

One on Fair Oaks, and——

The four-family flat on El Molino?

That is a four-apartment building on El Mo-
s.

And two residences down in Orange County?

One a residence and one a triplex.

And that was your main vocation for some
as of November 30, 1953, is that right?

It is so stated.

And did you represent at that time, as stated
s 7, 8 and a portion of 9, on page 10, as
:

* that your experience in it locally has been
management of your own real properties,
were of income nature, and of similar **proper-**
ned by either you or your wife's relatives''?

This part up here was what I was answering
(ting).

Your whole answer, statement to the court,
follows:—so we will make it clear, I will
l the representation, commencing at line 3—
w, they haven't announced any objection, but
n't know you. I have explained to them——"

Whyte: May the record show this is the
statements which are being read into the

(Testimony of Roy E. Hallberg.)

these are Mr. Hallberg's statements. These are the court's statements. Go ahead, Mr. Enright.

Mr. Enright: Thank you. Starting over, Reporter, at line 3:

"Now, they haven't announced any objections. They don't know you. I have explained to them that you have had experience in this type of work in Chicago, that your main vocation for some time was in the management of real properties, sometimes in connection with court receiverships, that your experience in it locally has been in the management of your own real properties, that they were of income nature, and of similar properties owned by either you or your wife's relatives."

Q. (By Mr. Enright): Mr. Hallberg, is that correct?

A. Ostensibly this is correct, with the exception of that last statement there. That was just a general statement. But the main fact was I had managed properties.

The Court: What he wants to know, Mr. Hallberg, is did the reporter get down correctly what you went on?

The Witness: I don't believe the reporter got it. However, at that time there was quite a general discussion and several people there, and the exact wording of that particular statement escaped me.

Q. (By Mr. Enright): Now, before you

mony of Roy E. Hallberg.)

at you had represented to this court, and I

Whyte: Again may the record show this is
turt's statement that is being read into the

Enright (Reading):

. Hallberg was for some years associated with
erty management operation in Chicago, and
onsiderable acquaintance and experience in
ype of work. Since coming to California he
ld various positions with different types of
ations, and has been engaged in the manage-
of property for elderly relatives who have
erable apartment property in southern Cali-

alled him and found that he is available, and
d him to come in here at about 2:00 o'clock
so that counsel could meet him. It was my
on——"

t is concerning another subject matter.

(By Mr. Enright): That statement was like-
rue? A. Yes.

Enright: That is all. [238]

Redirect Examination

(By Mr. Whyte): By the way, Mr. Hallberg,
plied to the question that statement was also

(Testimony of Roy E. Hallberg.)

ask—I may find myself in a mental reservation something—if he is just saying the reporter reported it correctly. I want to find out whether the statement is true, in addition to whether the reporter reported it correctly. I don't know what this means here myself, but I want to have no uncertainty in the record.

The statements were correct?

The Witness: Yes.

Mr. Enright: And they were the truth?

The Witness: As far as I can tell you now.

Q. (By Mr. Whyte): In the course of your duties as the Receiver of real and personal properties constituting the former Richman Trust, did you sign the checks which were issued by you as Receiver? A. I did.

Q. Will you tell us what you did in connection with the execution and issuance of each one of those checks? [239]

A. Those checks had been made out together with the supporting evidence in the way of bills and were checked against the amounts and I signed them.

Q. At the time you signed the check did you compare the amount on the check with the amount set forth in the bill? A. I did.

Q. Did you make any other check to determine whether the check correctly reflected the amount set forth in the bill?

mony of Roy E. Hallberg.)

It was checked before it was even presented, to see if the work had been finished.

By whom was the invoice checked?

By Mrs. Hallberg and myself.

You testified that you discussed matters during the evening with Mrs. Hallberg on frequent occasions. What sort of matters did you discuss with her at the end of the day?

Such problems as we both encountered during the day; work around the buildings. She encountered them and I encountered them. A lot of decisions were made at night, based on the information I had.

During those evening conferences, did you give her instructions with reference to the work of the succeeding day's work? [240]

I certainly did.

You have testified concerning your ownership of a 16-unit apartment building on South Fair Avenue in South Pasadena. Please tell the court what, if anything, you did with regard to the actual operation of that building.

Enright: Objected to as there was no cross-examination on what he actually did to establish the number of apartments; improper redirect examination.

(Testimony of Roy E. Hallberg.)

Q. (By Mr. Whyte): By "we" whom do you mean?

A. Mrs. Hallberg and I completely redid the building schemes throughout the building. The building was painted both inside and out. A lot of work was done by myself.

We had contractors called in to do some of the work. The roof was repaired. The garage doors were changed. The carpeting was completely pulled out and replaced by new carpeting to harmonize with the walls of the corridors, and new refrigeration equipment was put in. We took some double apartments and made singles out of them.

Q. Did you do any of the painting work yourself, Mr. Hallberg? A. I did, yes. [24]

Q. Did you do any of the carpeting work yourself? A. I did some of that, yes.

Q. What other manual labor in the building did you do yourself?

A. Oh, I laid some tile, that is, floor tile.

Mr. Whyte: I think that will be sufficient.

The Court: I hope that someone is going to establish here whether there was a decline in income or an increase in income for the same property during the period of the receivership and the immediately preceding period.

Mr. Enright: In that connection, your Honor, there are two aspects. We haven't seen the records of the building, but I have seen the

mony of Roy E. Hallberg.)

s, at least in California, in Los Angeles. You compare those three months.

e wants to compare those three months that in possession with three months, comparable months of other years, that could be done. I it would carry some weight or have some that way.

Court: That might be the proper comparison to make. But it would be of interest. Suppose a sharp decline? Everything goes along on a certain occupancy level, and you put in a re- and it cuts down to half that, that would be a big cut. [242]

le I am not going to give him credit for seasonal increase, if it turns out there was a seasonal decrease, I would like to know how it turned out and how it went in.

Enright: Yes. If that evidence goes in I know what it will be. I will say I would want the opportunity to bring in the comparable months of previous years.

Court: It wouldn't be worth anything unless you had it.

Enright: My opinion, I am sure, is not controlling in this matter, but I think it should be to a comparable period.

(By Mr. Whyte): Calling your attention to

(Testimony of Roy E. Hallberg.)

A. Some forty or fifty buildings. I don't know the exact number now.

Q. What services did you perform with reference to those buildings?

Mr. Enright: I object. No cross examination on that subject.

The Court: Sustained.

Q. (By Mr. Whyte): What was the building in the group that you managed in Chicago?

Mr. Enright: Objection, on the same ground as your Honor. [243]

The Court: Sustained.

Q. (By Mr. Whyte): During the course of your cross examination your attention was directed to your report and petition for fees, and specifically to page 3, lines 17 to 22, in which you reported to this court:

"Petitioner's operations with reference to the assets and properties of the former Richman Trust and the services which have been necessarily rendered and performed by him or his agents in carrying on the normal business and affairs of the former trust and matters incidental thereto, from and after December 1, 1953, to and including February 28, 1954, may be summarized as follows:

You were asked who were included within the term "agents". And I believe you replied Mr. Enright and Mrs. Hallberg. Is there anyone else

mony of Roy E. Hallberg.)

sen, who succeeded Mr. Harrison, and, of naturally, as agents I think that would in- the managers of the various apartments.

These petty cash funds that were kept at individual apartment, please tell the court function they performed. [244]

Enright: Objected to on the ground it is erial as to the function. The only question they under his control. The court order was in control.

Court: I kind of would like to know what funds they were. Let's just get the picture

Enright: All right, your Honor.

Witness: These funds were in the hands of nagers who were managing each one of these gs. The funds were used to pay incidental e they accumulated, or out-of-pocket money, e small items which they picked up at the and used in the building could be paid for.

as also used for cashing checks. Some of the in the buildings would bring in their checks e managers would cash them from that petty und.

(By Mr. Whyte): You mentioned before u considered those as part of the operating of the individual apartment houses

(Testimony of Roy E. Hallberg.)

Mr. Enright: He started to answer at the time.

Q. (By Mr. Whyte): You stated before you considered those petty cash funds as be part of the operating assets of the individual a ment houses. [245]

Did you so consider them for the reasons you have stated, namely, they performed the tions you have mentioned?

Mr. Enright: To which objection is made being incompetent, irrelevant and immaterial what he considered. The question is was the n under his control.

The Court: Sustained.

Mr. Whyte: I have no further redirect examination, your Honor.

The Court: Next witness.

(Witness excused.)

Mr. Whyte: Mrs. Hallberg, would you take stand?

Mr. Enright: Your Honor, I have two witnesses under subpoena that will be short. I would like to be accommodated.

The Court: If you wish to take that order, we will take the two short witnesses.

Mr. Enright: Mrs. Kennedy.

MAUDE KENNEDY

mony of Maude Kennedy.)

Clerk: Please be seated. Your full name,
?

Witness: Maude Kennedy. [246]

Direct Examination

(By Mr. Enright): Were you an employee
y E. Hallberg, Receiver, during the period
November 30th to and including February
64? A. I was.

As an employee were you the manager of the
rn Arms Apartments?

That is right.

Would you state how many times you saw—
how many hours a day were your services
rendered as manager of that apartment

A. How many hours a day?

Yes. Are you there 24 hours a day?

That is right.

You have an assistant, is that it?

If I am not there the assistant was there.

In the ordinary course of business all occur-
at the apartment of a business nature, so
the owners are concerned, is reported to you?

That is right.

Now, on how many different occasions during
riod December 1, 1953, through February 28,
lay, 1954, did you see Mr. Hallberg?

(Testimony of Maude Kennedy.)

Mr. Hallberg picked up the rents and Mr. man asked me to cooperate with Mr. Hallberg they left.

Then I don't know what day that was on, think it was on a Saturday evening or a Sunday evening following, I happened to go out and I saw Mr. Hallberg and Miss Cosgrove in the lobby.

Mr. Hallberg introduced me to her and said she was going to take over the interior decorating and I would deal with her.

I never saw Mr. Hallberg again until the 6th of February, on a Saturday morning, and he came in and spent about an hour, and that is the last time I ever saw Mr. Hallberg.

Q. Now, directing your attention to a refrigeration problem that occurred or arose at the West Arms Apartment in February, I believe, of 1934. Did a problem arise concerning the refrigerator?

A. Yes. One of the apartments reported that the box was off. I called the company——

Q. I am concerned about the date, first, if you will pardon me.

A. It was either—it was on the 16th, and I came and turned the box off. I am sure that it was the 16th. [248]

Q. Now, just a moment, Mrs. Kennedy, if you please. A. O.K.

mony of Maude Kennedy.)

Now, my inquiry is this: Did you attempt to touch with Mr. Hallberg?

I did.

And for what period of time did you try to touch with Mr. Hallberg and/or Miss Cos-

I started trying to get in touch with Mr. Hallberg on the afternoon of the 17th, 18th and 19th and never was able to contact Mr. Hallberg.

About 5:00 or 5:30 on the evening of the 19th Miss Cosgrove called me and asked me if I had been trying to contact Mr. Hallberg, was something wrong with the refrigeration.

Yes, I was, but I said, "It is all taken care of. I had to go ahead and decide for myself."

How did you try to contact Mr. Hallberg?

I tried to contact him through the office, and I called two different times out at his house, and I was never able to get him.

By the "office" you mean the office set up at the Oliver Cromwell?

A. Yes. [249]

Oliver Cromwell Apartments.

That is right.

Now, did you call Mr. Richman?

I certainly did on the morning of the 18th.

Concerning this subject matter of the refrigeration?

(Testimony of Maude Kennedy.)

A. He said I should go ahead and see what was done. I let the other people go and go to Daugherty, John Daugherty of the Normandy Refrigeration.

Q. You let the other refrigeration company and hired John Daugherty yourself?

A. That is right. And Mr. Hallberg called as near as I know it was on the morning of the 20th when he came in, and I explained to him what I did, and he said I did—that everything I did was perfectly all right.

Q. Now, when you used the words “can’t remember” was there a phone conversation or did he personally come over?

A. No, he did not come in the apartment; he called me on the phone.

Q. On the morning of the 20th?

A. Yes. I don’t know where he was. I judged he [250] was at the office.

Q. Directing to your attention to Miss McGrove’s activities, did she attend to some part of the Western Arms? A. Yes, sir.

Q. Would you explain in what manner or how she attended to it?

A. Well, she just hired painters to come and paint; most of it wasn’t successful.

Mr. Whyte: I am going to ask the last question of the witness be stricken as not responsive.

mony of Maude Kennedy.)

seems if you are going to paint something you
rily succeed in taking the paint off. So if that
something to her, something more to her
does to me, you can have her develop it.

(By Mr. Enright): Mrs. Kennedy, how long
you been a manager of apartment houses?

Since 1924.

In this community here?

That is right.

Apartment houses similar to the Western

A. A lot of it, yes.

That course of years, have you as manager
participated in the directing of the painting of
apartments? [251] A. That is right.

Will you explain what you mean by success-
unsuccessful painting by Miss Cosgrove over
in these apartments?

Miss Cosgrove insisted on them using a paint
of the painters wanted to use. I called it water
I don't know what the name of it was.

she had a lot of trouble with the painters,
the painters refused to use it. She wanted
to put it on with a roller and they refused
it.

the painters would quit and they would have
ahead and put this on, and it didn't cover,
even when you washed it, it washed off.

(Testimony of Maude Kennedy.)

Q. Now, did she bring out some paper for you?

A. Yes, but I didn't use them. They were something. I don't know, plastic tablecloths. I use them.

Q. Did she pick up the money at the apartment at the Western Arms Apartments?

A. Yes, she was the one that came in for

Q. Did she give you a receipt for the money she took? [252]

A. Well, sometimes she did and sometimes she didn't.

Q. You had a triplicate receipt for each rent collected, didn't you? A. Yes.

Q. Did she take those, one of the triplicate receipts, to her?

A. Well, sometimes she did and sometimes she forgot them.

Q. Whether she forgot them or not, she would take them with her sometimes?

A. That is right.

Q. Now, did you receive instructions from Cosgrove as to what you should do in case you needed supplies?

A. No. I just went ahead and ordered supplies like I had always done.

Q. Do you recollect a dispute with the Cosgroves concerning two-tone painting of one of the

mony of Maude Kennedy.)

ve told them what kind of paint they had to
nd they said they had never used it, and if
id use it they wouldn't stand good for it.

l, they did use it and it didn't cover, so I
Miss Cosgrove until it was repainted or some-
done to it I wouldn't show it.

he apartment sat there for almost a month
[253] she got the painters back again to do
inting over, and then they came in and put
kind of shellac or something over it, and they
eir money.

I had in mind the problem, if there was one,
harmonizing a color scheme in the apartment
Western Arms. I may be confused on that,
tone coloring.

Maybe you are thinking of 119. She said she
ing to do a trick deal in there, yes. She put
d of it yellow and the other brown, and to
has three coats and it still isn't covered.

Now, as to carpeting, did Miss Cosgrove
ome new carpeting, or did you have a dispute
able concerning some new carpeting?

No, there was never any new carpeting put
while Miss Cosgrove——

I was referring to the lobby.

Court: Which establishment is this?

Witness: Western Arms. In the lobby?

(Testimony of Maude Kennedy.)

A. Yes, and I rented the apartment couldn't get in touch with Miss Cosgrove, so I there was some old carpet that had been taken out of the lobby in the trunk [254] room. So Mr. Waddell come over and we took the carpet and he assured me I had enough there to cover Apartment 301, which was a large apartment.

Mr. Whyte: I am going to move the last sentence stricken as hearsay, your Honor, what Mr. Waddell assured her.

The Witness: I talked to him.

The Court: I know, but he will have to come here to tell us. We can't take from you what he said. That is hearsay.

Q. (By Mr. Enright): You had a conversation with Mr. Waddell and then later you had him do some work on the carpeting? A. Yes.

Q. And you had it placed in the apartment?

A. That is right.

Q. So Miss Cosgrove didn't buy new carpet for that area. A. That is right.

Mr. Enright: You may cross-examine.

Cross Examination

Q. (By Mr. Whyte): Mrs. Kennedy, I believe you stated you saw Mr. Hallberg on only three occasions, the first one on or about December 1961 when Mr. Richman brought him in,—

mony of Maude Kennedy.)

The second occasion was on Saturday or Sunday following, when you met Mr. and Mrs. Hall—is that right? A. In the lobby.

And the third occasion on February 6th, on Sunday morning? A. That is right.

You are quite sure those are the only occasions upon which——

Those are the only occasions I ever remembering Mr. Hallberg.

Do you recall that on December 2nd Mr. Hallberg and I came to the Western Arms Apartment building and requested that—either December 2nd or December 2nd—spoke to you, met you and talked about your rents? Do you recall that, Mrs. Kennedy?

That was before Mr. Hallberg took over.

Do you recall having seen——

I certainly——

——Mr. Hallberg on that occasion?

I was stating the times I had seen him after he took over.

We all understand what your testimony was, Mrs. Kennedy. A. All right. [256]

There were occasions upon which you were in the apartment building, is that not correct?

Why, certainly.

You had an assistant manager?

(Testimony of Maude Kennedy.)

A. Well, one day a week.

Q. Was it only one day a week or was it more often that you were away and left the apartment in charge of your assistant?

A. Every other Friday and every other Saturday. I didn't necessarily go away; I wasn't on duty.

Q. Did you have an apartment there?

A. Yes, right facing the lobby.

Q. Now, when you say every other Friday and every other Saturday, by that do you mean to say that you were never out of the apartment house on any other occasion except on every other Friday and every other Saturday?

A. I am trying to say that any time I was out the assistant was there. It never was alone.

Q. I am trying to find out how frequently you were out when the assistant was left alone in the apartment.

A. I told you—— [257]

The Court: What he wants to get is how many times you wouldn't be there and the assistant would be. Would it happen that you would go out for an hour or two or would you go out for a morning or a noon during the week, other than your day off?

The Witness: Very, very seldom.

The Court: Did you have a division of time when you were on duty and time your assistant was on duty?

The Witness: That is right.

The Court: What was that division?

mony of Maude Kennedy.)

Court: Thank you.

(By Mr. Whyte): I didn't quite catch your answer, Mrs. Kennedy.

Whyte: Will you read the answer, please, Reporter?

(The answer was read.)

Enright: You were off duty every other noon for two hours, and you were off duty every other Friday and Saturday, is that right, Mrs. Kennedy?

Witness: I was off duty, yes.

(By Mr. Whyte): Now, during those periods when you were off duty, did you ever leave the apartment building? A. Very seldom. [258]

Where would you be, in your room?

That is right.

So that if Mr. Hallberg or Mrs. Hallberg came into the lobby of the apartment building at those times, when you were off duty every other noon for two hours and every other Saturday and every other Friday, you wouldn't have seen them, would you?

No, but my assistant would.

You mentioned the fact that you would order suppers. From what did you pay for those suppers, Mrs. Kennedy?

It was paid from the office. We dealt with West Coast, and when I speak of suppers, I

(Testimony of Maude Kennedy.)

Q. Did you have a petty cash fund at the o

A. I certainly did.

Q. About how much did that fund consist
your apartment? A. \$100.00.

Q. What other items did you take care o
sides paying for supplies, such as soap, out of
petty cash fund?

A. We did not pay for soap out of our
cash. The West Coast bill was taken care of
the office. [259]

Q. I misunderstood you then. Just tell me a
what you used your petty cash fund to pay f

A. We charge a dollar deposit on every key
is given the tenant. When they move out we r
that. That goes in with the rents.

When they move out we refund them a d
on each key, which is taken out of the petty

Q. What else did you use petty cash for?

A. Any little bills that might come up tha
had to pay petty cash. The assistant, the h
keeper, she did all the curtains, which was pai
of petty cash.

Q. Did you ever cash checks out of petty c

A. Never. No checks ever were cashed o
petty cash.

Q. Anything else that you ever did with
cash, any other disbursements except—

A. Well, we paid, give the can man every

mony of Maude Kennedy.)

Thank you.

Because there is always stuff that we want out of the apartment house, and that way he take anything we give him. So we pay him a extra; that is taken out of petty cash. [260]

Well, let's see whether we have them all. I referring now to the things that you paid for petty cash. You made refunds on the keys?

That is right.

You took care of little bills?

That is right. If someone came in, like we extra help from the employment agency, that paid out of petty cash.

All right. Extra help from the employment , that is another item?

That is right. When they came in for, Mr.— and a man that came in there and washed the walls. I can't say his name right now. He washed the walls down, and that was all paid out of petty cash.

Washing windows and walls, paid from petty

Or when a kitchen or bath had to be washed.

And the can man was paid from petty cash?

That is right.

And the curtains were paid for from petty

A. That is right.

(Testimony of Maude Kennedy.)

wanted to either get a check cashed or want to pay rent with a [261] check and get some change back, or something of that kind? Did you have transactions of that sort?

The Witness: No, we didn't do that sort of thing at all. And the tenants understood they could have checks cashed at the house.

The Court: You never did that kind of business?

The Witness: That is right.

Q. (By Mr. Whyte): I understood you that there was no other fund on hand at the apartment from which you could have taken care of the refunds, the little bills, the can man, the extra for window washing or walls, the curtains and the other items you mentioned payable out of the cash, no other funds?

A. No; that is right.

Q. If you hadn't had that petty cash fund, would have been nothing from which you could have paid any of those items then?

Mr. Enright: Objected to on the ground of being incompetent, immaterial and irrelevant.

The Court: Sustained.

Mr. Whyte: Your Honor, it goes to show, of course, that when Mr. Hallberg did not take care of the managers of these apartment houses their cash funds at the time he relinquished his responsibility, he did not do so for the very good reason

mony of Maude Kennedy.)

Court: I don't mean by the ruling to ex-
that theory. I just think the immediate ques-
as not good.

Whyte: Very well, your Honor.

Court: I am not accepting that theory for
ment, either. I am just not passing on it.

(By Mr. Whyte): Mrs. Kennedy, did you
have occasion to go out to the West Coast
lty Company to pick up any supplies?

I certainly did.

And when did you do that?

Whenever I needed something quickly and
't get a delivery on it, I often did it.

You did that sometimes on days which were
ur regular days off?

say you had two hours off every other after-
nd every other Friday and every other Sat-
you had off. Let's suppose that you had some-
you had to get from the West Coast Specialty
any on Monday afternoon, and you were in
y for it, would you go out to West Coast Spe-
and get it?

Enright: Objected to on the ground the
on is argumentative, compound, vague and in-
e, and uncertain, unintelligible.

Court: Do you understand the question,
Witness? [263]

Witness: No.

(Testimony of Maude Kennedy.)

for two hours and every other Friday, every Saturday.

Now, let's suppose on a Monday afternoon of the afternoons which was not your regular noon off, you found that you had to purchase something from the West Coast Specialty Company and it was urgent, would you go and get it on occasions?

A. I would always get it on my time off. plenty of time off to get it.

Q. I am asking you whether or not you went to get things at the West Coast Specialty Company on days which were not your regular off.

A. Not that I can remember of.

Q. At the time Mr. Hallberg assumed his position as Receiver, on or about December 1, 1953, can you recall how many vacancies there were at the Eastern Arms Apartments?

A. No, I cannot.

Q. Do you have any records with you that show that?

A. I have no records with me.

Q. Do you have any records at the apartment—

A. I certainly do. [264]

Q. —that would show your vacancies?

A. They certainly should; my ledger should.

Q. I am going to request, Mrs. Kennedy, you return and bring with you the records of your apartment building which will show the vacancies.

At the time Mr. Hallberg took his position as Receiver, on or about December 1, 1953, can you recall how many vacancies there were at the Eastern Arms Apartments?

mony of Maude Kennedy.)

g the three-month period of December, January and February, during which Mr. Hallberg was in charge of the apartments.

Will you do that, please?

Enright: Will you, Mr. Whyte, obtain permission for this manager, from counsel in the court—who is representing the owner. They have control of the records, Martin, Hahn & Camusi, attorneys for the plaintiff.

Powsner: I am not aware that the records are in any place but the apartment house. I will obtain them, if I can. If they are in our possession we will have them.

Whyte: I would like to question Mrs. Kennedy with reference to them. Do you have any objection to her bringing them in?

Powsner: Not in the least.

Whyte: I will ask the court to instruct Mrs. Kennedy to return for further cross examination, bringing those records with her, of the vacancies during the three months when Mr. Hallberg was occupying the apartment. [265]

Enright: I object to that on the ground it does not either tend to prove nor disprove any point in issue here.

Court: It might tend to prove the success or failure of Mr. Hallberg in keeping a place filled

(Testimony of Maude Kennedy.)

The Court: It is just something I think would have to find as a result of a line of inquiry.

When can you conveniently follow out that quest?

The Witness: Well, any time that you say.

The Court: Can you go out and get them get back this afternoon?

Mr. Enright: I might state to the court witness has been under subpoena. I understand has a heart condition.

Is that right?

The Witness: Yes.

Mr. Enright: I didn't bring her in yesterday. I want the court to know it beforehand. I am she will be here. I had to delay her one day.

The Court: How about Monday at 11:00 o'clock?

The Witness: See, I am just giving up the aging of this building as of tomorrow night, and had promised Mr. [266] Udall, the man the overseer right now, to be there to talk to the manager Monday morning.

The Court: How about Monday afternoon?

The Witness: That would be much better.

The Court: 2:00 o'clock Monday.

The Witness: That would be better.

The Court: Thank you.

Q. (By Mr. Whyte): Mrs. Kennedy, you something about Apartment 119? A. Yes.

mony of Maude Kennedy.)

Was it vacant?

It was vacant and I had it rented. It was
d and I rented it.

With reference to the painting, was it vacant
it was painted, immediately before it was
d? A. Yes.

When was it painted?

The people moved out. I had it rented, and I
Miss Cosgrove and told her I had to get the
ment painted immediately, and she said she
be out, and I said, "I can't wait."

Whyte: I am going to move the answer be
en [267] as not responsive.

Enright: I submit the answer is responsive.

Court: Motion denied. You may inquire
er.

(By Mr. Whyte): When was the apartment
ed, Apartment 119?

It was started about a day or two days after
s vacated.

Was it in December? Was it in January?

Now, I don't remember.

It was sometime during Mr. Hallberg's ten-
s Receiver that it was painted?

That is right.

Was the apartment vacated immediately be-
t was painted? A. I told

(Testimony of Maude Kennedy.)

A. Miss Cosgrove. She said she would be and pick the colors.

Q. After the apartment was painted, how did you rent it?

A. I had it rented before it was painted.

Q. Now, I have understood you to say, and have an opportunity to correct your testimony am misinterpreting it—I don't want to put it in your mouth at all—I understood you to say apartment was vacated immediately before it was painted. Is that correct or is it not?

A. I said it was vacated immediately before it was started to be painted.

Q. Well, the apartment was vacated. Was it vacant after it was vacated?

A. It must have been.

Mr. Enright: I object on the ground it calls a conclusion of the witness; it is argumentative.

The Court: It would necessarily be for a short time. Once you vacate something, there is no one there.

The Witness: May I say something?

Q. (By Mr. Whyte): Please just answer the questions, Mrs. Kennedy. Was the apartment vacant after it was vacated? A. Yes.

Q. Then about two days later it was painted. Mrs. Hallberg's request, is that right?

A. At my request.

mony of Maude Kennedy.)

(The record was read.)

Enright: I would like to have the previous questions [269] and the witness' previous answers, be informed—these are not her words—Miss Kennedy says the apartment should be painted. Counselor's question now is a play upon words, as to who painted it.

(The record was read.)

Court: I recall that. I don't think that it is a very subtle thing to observe; it's rather open. The court will take our afternoon recess.

(Short recess taken.)

By Mr. Whyte): Referring to this Apartment 19, after the apartment was painted, someone moved in, a tenant moved in, Mrs. Kennedy? A tenant moved in. May I explain it?

That is all. That is all, you have answered the question.

Q. It has been rented ever since then, so far as you know about that apartment? A. It has.

Q. Does it look pretty smart? A. No.

Q. But it has been rented continuously?

A. It was rented continuously before.

Q. It has been rented continuously since it was painted, is that correct?

A. That is right. [270]

Q. Did I understand you to testify in my cross examination that you were requested to find out if it

(Testimony of Maude Kennedy.)

A. I said it was vacated and I called Miss Cosgrove and told her I had to have it painted immediately, because I had it rented.

Q. Now, how long did it remain vacant?

A. Just long enough to get it painted. I had the lady living in 204 waiting for 119 when it was finished.

Q. Was Apartment 119 painted with this paint that you referred to? A. It was.

Q. That water paint is put out by the Glidden Company, is it?

A. I have no idea who it is put out by.

Q. Are you still the manager at the West Arms, Mrs. Kennedy? A. I am.

Q. Now, with reference to this matter of refrigeration, you testified on your direct examination that you tried to get Mr. Hallberg on the 18th, and the 19th of February, both at his office at the Oliver Cromwell and at his home, without success?

A. That is right. There were two days altogether [271] that we tried to get in touch with him and never succeeded.

Q. Is it two days or is it three days?

A. I was talking about when the refrigerator had started to go out. And that was on the 16th. Miss Cosgrove was in there either the 16th or the 17th and saw the men working on it.

Q. The refrigeration went out on the 16th.

mony of Maude Kennedy.)

and when I told her what had happened she
When I was in there I saw men working on
refrigeration machine." But I didn't know then
they were going to say that it was such a big
and then——

Let's try to get our facts straight here. The
refrigeration went out on the 16th.

That is right; one box did.

When did Mrs. Hallberg come in?

Well, I don't know whether she came in on
the 16th or on the 17th. She came in to collect the
money and went out through the basement.

It was either the 16th or 17th?

That is right.

Did she see the workmen working on the
refrigeration?

She saw these people from the California,
they were [272] servicing the house.

Thank you. Now, you tell me that you at-
tempted to reach Mr. Hallberg by telephone at his
office or at his home?

That was either the 18th or 19th or the 17th
or the 16th, I am not sure which it was. But I think
it was the 18th and 19th, the two days we tried
and we found out that this was going to run into
a great deal of money.

Consulting my calendar I find that the 18th
and 19th were a Thursday and a Friday. Does that

(Testimony of Maude Kennedy.)

Hallberg at his office, did you receive any re your telephone call?

A. Why, only Mr. Harrison; took all my sages.

Q. Was it Mr. Harrison who answered the phone at the office on the 18th?

A. That is right.

Q. When you called on the 19th Mr. Ha answered the telephone? A. That is ri

Q. How many occasions did you try, or many occasions did you try to reach Mr. Ha at his home on either the 17th or 18th or the and 19th?

A. I called him both days at his home, and was [273] no answer.

Q. About what time did you call him?

A. That I would not know now. I would it was in the mornings.

Q. In the morning, you say?

A. I imagine it would be in the morning. I tell you for sure.

Q. You recollect whether you telephoned home in the evening?

A. I didn't try to get him in the evening. the messages at his office.

Q. What message did you leave with Mr. rison?

A. To get in touch with him some way, and

mony of Maude Kennedy.)

Whyte: I move that be stricken as hearsay, Honor.

Enright: I object to it being stricken. It is responsive to the question.

Witness: That was the only way I had of getting Mr. Hallberg, is through his office.

Court: The answer is stricken, that portion of the answer. It is not responsive. The witness has made an improper answer, which I think is.

Whyte: No further cross examination.

Redirect Examination

(By Mr. Enright): Mrs. Kennedy, how far is it from Western Arms to the West Coast Spe-

? A. About five blocks.

Do you have an automobile?

Yes, I do.

It is available to you there at the Western Arms?

A. Yes.

Did your assistant manager ever report to you that Mr. Hallberg had been at the building—

Whyte: Objected to as calling for hearsay.

Enright: It is a report in the due course of business in the operation of this property, one of the duties of the agents of the Receiver.

(By Mr. Enright): Did your assistant manager ever report to you—please hold up your ex-

(Testimony of Maude Kennedy.)

lained, or your Friday or Saturday that you
every other week——

Mr. Whyte: Objected to as hearsay,
Honor.

The Court: Overruled.

Do you understand the question?

The Witness: Do I answer? [275]

The Court: You can answer it yes or no.
can't tell the full conversation.

The Witness: Yes.

Q. (By Mr. Enright): And what was the r
you received from the assistant manager?

Mr. Whyte: Again objected to as calling for
dence that is hearsay.

The Court: This is to show a report wa
ceived. I think this is one of the exceptions t
rule.

Mr. Enright: Very well, your Honor.

The Court: You may answer.

The Witness: One time.

Q. (By Mr. Enright): Go ahead and ex
your answer.

A. One time when I came back, I think it
in the evening—I am not sure—Mr. Hallberg
Mr. Harrison were there and went through for
five apartments.

Q. That was the report?

A. That was the only time

mony of Maude Kennedy.)

(By Mr. Enright): That was the report you
ed? A. That is right.

Concerning this painting at 119 Apartment,
ou participate in or hear a conversation be-
Miss Cosgrove and the painter? [276]

Well, I did on several occasions. But may I
t that? That was paint that was only put on
iving room, because I had the bath, dressing
and bedroom done before she came out there.

Before Miss Cosgrove came out?

Yes, and it was done in the oil paints.

Did you have any conversation with her con-
g the painting of the living room?

I was not in there when she chose the paint.
ainter came out and told me what she wanted
o use.

But did you have a conversation with Miss
ove before the painting of the living room of
n which she gave you some instructions con-
g the living room?

She gave it to the painter, the instructions.

I know she did, but did she tell you, if I may
ou, "Do not let the painter paint the living
" because she wanted to give him some par-
r instructions?

She said she was going to do a trick deal

(Testimony of Maude Kennedy.)

tween the painter that did the trick deal in
living room of 119? A. Part of it.

Q. State what was said.

Mr. Whyte: Just a moment. [277]

Mr. Enright: This is a conversation between
painter and Miss Cosgrove.

Q. (By Mr. Enright): Is that right?

A. That is right.

Mr. Whyte: I am objecting, no proper foundation has been laid to show this woman was present at the conversation about which she is going to speak.

The Court: Is this the conversation which you heard?

The Witness: Yes.

The Court: Who else was there?

The Witness: The painter and the man that was helping him; he had a helper there.

The Court: And Miss Cosgrove?

The Witness: That is right.

The Court: You may relate the conversation.

The Witness: Well, she wanted him to put water—

Q. (By Mr. Enright): Try and say, the best you can, what she said and what he said.

A. Miss Cosgrove wanted him to use this water paint, and he is an old Swedish fellow that learned his trade in Europe, so, naturally, he didn't

mony of Maude Kennedy.)

Court: You can tell what they said, but as variations of the character of the people and backgrounds [278] in Europe and so on, we take that as part of the conversation.

Witness: O.K.

By Mr. Enright): State as best you can the painter said and Miss Cosgrove said.

So the painter said, all right, he would use it wouldn't cover.

He went out and got him a card of the colors, went out and got brown for the walls and for one other wall—I mean one end of it. Didn't like yellow.

Now, what is the name of that painter?

Mr. Erickson, Carl Erickson.

Was he still doing painting at the apartment after this event, painting 119?

He didn't do any more painting for Miss Whyte.

Did the tenants state—as I understand, there was a tenant in 204 you had rented 119 to?

That is right. I put her in there waiting.

What did she say about the painting of 119 apartment?

Whyte: I object to that as calling for hearsay evidence.

Enright: Report of the

(Testimony of Maude Kennedy.)

position [279] is Miss Cosgrove has done a
cellent job of decorating and painting here.

We have a report of the tenant of the apart
how they liked——

Mr. Whyte: I don't know what exception
hearsay rule you are talking about. If you are
ing about the reports kept in the regular cour
business, then you haven't laid any suff
foundation for showing reports were kept i
regular course of business by the manager o
apartment building, as to what the tenants s

You will have to produce the books and ide
this woman as the custodian, and that the e
were made in the regular course of business.

I submit no exception to the hearsay rul
been fulfilled here, your Honor.

The Court: I think as to this inquiry it ha

Q. (By Mr. Enright): Were you present a
time when a conversation was had between
tenant or the painter with Miss Cosgrove con
ing the satisfactory or unsatisfactory mann
which that living room in 119 was painted?

A. He went back and did the walls over
after the tenant got in.

Mr. Whyte: I move the answer be strick
not responsive to the question.

The Court: May I have the question?

(The question was read.) [280]

mony of Maude Kennedy.)

so you understand, is, were you present at
ne when there was a conversation? You see,
ould answer yes or no, you were present when
versation—— A. Yes.

You were present when there was a con-
on? A. Yes.

Who was the conversation between?

The painter and the tenant. You mean after
painted?

Yes. A. Yes.

At any one of these conversations was Miss
ve present?

No, she never saw the tenant.

Is the tenant still living there?

Yes.

Was the apartment living room painted
after the first painting?

Yes, it was.

You had a request from the tenant to have
ng room repainted?

Yes, because it wasn't covered. [281]

Will you be the manager and in control of
estern Arms' books on next Monday?

No, I won't.

Your employment at the Western Arms——
I resigned as of tomorrow night, the night
15th.

Enright: I might point out to the court that

(Testimony of Maude Kennedy.)

Cromwell Apartments, and they are available to them if they want to bring them in.

The Court: Apparently, this lady will not have the authority to comply. She will not have the authority on the part of the employer to possess the records on Monday afternoon, so we can't hear her at that time, unless the term of her employment be extended.

Mr. Enright: If they want to bring in the books, I am quite certain the lady will come down here Monday.

Q. (By Mr. Enright): You will, won't you, if somebody wants to bring in the records——

A. Certainly. I just wanted you to know I have no right to do it.

Mr. Enright: Will you bring in the book Whyte, for her testimony?

Mr. Whyte: I don't have the books, Mr. Enright. [282]

Mr. Enright: The court order is that the books be kept and records be kept out at the Oliver Cromwell Apartments. So far as I am concerned, the books are there in the custody of the plaintiff. That has never been vacated.

The Court: I don't know that the court has made any order with respect to that.

Mr. Enright: Yes.

The Court: The court dismissed the action.

mony of Maude Kennedy.)

a dismissal of that portion of the case you
l, there was not an adjudication, so the court
done anything by way of ordering things
ntact, except the court has exercised its jur-
on over its Receiver.

Enright: I thought that included the books
ecords. That was my interpretation of the
I may be in error. I appreciate your Honor's
ent about the dismissal of the action.

Whyte: Somehow we will have to arrange
is book which Mrs. Kennedy has referred to
ought in, whenever the court wishes to re-

Enright: Yes. I would say this witness, I
her, and she has not control of those books
oday.

Court: She will be excused at the conclusion
3] her testimony today. If you want to call
ack again you can.

Enright: I am through with the witness at
me.

Whyte: I want her to come back, to testify
reference to the books which are presently
her control.

Court: Please be here on Monday at 2:00
k.

Witness: Yes. But I can't bring the books,

(Testimony of Maude Kennedy.)

Mr. Enright: That is all.

The Court: They will have to make the arrangements.

The Witness: That is on the monthly report I send in the monthly report every month to Hallberg, and the vacancies were on that.

The Court: Well, they can produce the report but they apparently want you, too.

The Witness: I see.

Mr. Enright: Step down.

Mr. Whyte: I have a question or two, Mr. Enright.

Recross Examination

Q. (By Mr. Whyte: You are leaving the Western Arms tomorrow night, Mrs. Kennedy?

A. I have resigned as of the night of the 15th.

Q. You have turned in a written resignation?

A. I certainly did.

Q. You weren't by any chance requested to leave, Mrs. Kennedy?

A. I told you that I resigned.

Q. You haven't answered my question. Did you request to leave? A. I was not.

Mr. Whyte: I have no further questions.

(Witness excused.)

Mr. Enright: I have another manager. I am short. All I am going to find out is the number of

EDNA LIPPHARDT

as a witness on behalf of the defendants, having been first duly sworn, was examined and testimony follows:

Clerk: Please be seated.

Q: Your full name, please?

A: Witness: Edna Lipphardt; L-i-p-p-h-a-r-d-t. I am a little hard of hearing.

Q: The Court: The witness requests that you stand close to her, because she is hard of hearing.

Q: Don't overlook the reporter has to get everything and it is a tendency to speak down when you are close to a witness. [285]

Direct Examination

Q: (By Mr. Enright): Mrs. Lipphardt, were you the manager of the Fountain Manor Apartments during the period November 30, 1953, through January 28, 1954? A. Yes.

Q: Have you been an apartment house manager some period of time in this community?

A. Yes.

Q: How long? A. Since 1930.

Q: Did you have occasion or did you meet Mr. Berg on or about December 1, 1953?

A. Yes.

Q: On how many occasions did you see Mr. Berg at that apartment house during the period December 1, 1953, to January 1, 1954?

(Testimony of Edna Lipphardt.)

Q. Were you introduced to Miss Cosgrove on December 1st? A. Yes.

Q. State what was said at the time of the introduction.

A. He told me Miss Cosgrove would be in charge of all the decorating, that she was his right hand and that she would [286] supervise the building for him.

Q. Did she, Miss Cosgrove, collect the money from you as the manager?

A. Not from me personally, no; from the clerk who took care of the books.

Q. Now, did Miss Cosgrove purchase some supplies for the particular apartment house you were managing? A. Yes.

Q. And directing your attention to the fiber draperies, that subject, were some purchased?

A. Yes.

Q. And the cost of those draperies, if you know?

A. Yes.

Q. What was the cost?

A. The cost, one particular pair I know of was \$29.75; at least, that was the tag on the drapery. Whether that was actually what she paid or not I don't know. That was the tag on the drapery.

Q. You said twenty-nine. Did you mean twenty-three?

A. There was one \$29.75 and one \$23.75.

mony of Edna Lipphardt.)

draperies around \$6.95, \$7.95, and maybe as
s \$10.50.

Did you have any difficulties concerning
ing [287] while you were manager in that pe-
time?

Yes, we had four different sets of painters
three months.

Who brought those or employed those paint-
A. Miss Cosgrove.

Were there any holding up of the renting of
f the apartments while they were being
d? A. I beg your pardon?

Was there any holding up of the renting of
ments for their being painted?

Yes, there was one particular apartment that
d ready—in fact, had rented. We had no
to put in the apartment and there were no
ies. It stood idle for a week, waiting for

Cosgrove had promised to bring the lamps
he Oliver Cromwell, another apartment house.
she brought them they were three very small
amps, and two of them had no shades what-
and for the third one there was a bridge
shade.

Now, directing your attention to the subject
of a petition to redecorate certain

(Testimony of Edna Lipphardt.)

Mr. Whyte: Objected to as calling for the conclusion of [288] the witness.

The Court: Sustained. The answer is stricken.

Q. (By Mr. Enright): All right. Did you report to Miss Cosgrove or to Mr. Hallberg that the tenants had moved out of that apartment house because the apartments were dirty or unclean?

A. I did not.

Q. Did Miss Cosgrove call you after a hearing of a petition here and ask you to sign a statement pertaining to that subject matter?

A. She came to my apartment with a statement.

Q. Prepared statement she asked you to sign?

A. Yes.

Q. State the conversation that occurred.

A. I refused to sign the statement, saying that the tenants had moved out because of the condition of the apartments, that that was not true.

Then there was another part to the statement about a stove; there was a discussion about a stove.

Q. This is a conversation you had with Miss Cosgrove?

A. Yes.

Mr. Whyte: I am going to move to strike the answer to the effect that the tenants had not moved out because of the condition of the apartments. As to the reason why the tenants moved out, that will be entirely beyond the knowledge of [289] this witness. It is her conclusion, purely and simply.

mony of Edna Lipphardt.)

Whyte: Part of what she testified to in the answer, Judge, was apparently a conversation, don't think that what she said about her conversation, as to whether they moved out, purports to state either she said or Mrs. Hallberg said. However, I will let the record speak for itself.

Enright: Yes, the record will speak for itself. I asked the question, did this witness ever tell Miss Cosgrove or Mr. Hallberg that tenants moved out of that apartment house because the apartments were dirty, and her answer was no.

Now inquiring about the conversation had between Miss Cosgrove and this witness after that time before your Honor.

(By Mr. Enright): What was the conversation you had with Miss Cosgrove concerning the matter of a stove?

An apartment was vacant. The stove was in good condition. Miss Cosgrove said, told me she was going to order a new stove.

At the meantime I rented the apartment and the tenants moved in at the same price we had always charged for the apartment. About five days after the tenants had checked into [290] the house a new stove was delivered and placed in the apartment. The tenants didn't rent the apartment because a new stove was put in there. That was the hope of con-

(Testimony of Edna Lipphardt.)

The Court: That was not the reason the ment was rented, that that was a bone of cont is stricken.

Q. (By Mr. Enright): Was that the subj the conversation you had with Miss Cosgrove time she asked you to sign this written state

A. Yes.

Mr. Enright: May I ask the testimony be stated?

Q. (By Mr. Enright): Did you hear any versations between any one of these four dif painters and Miss Cosgrove during this three-period? You could answer that yes or no, w you heard the conversation.

A. Yes, I heard them.

Q. Were there more than one conversation the painters?

A. Yes, there were quite a few; not only versations but arguments.

Q. Well, that is a conclusion, Mrs. Lipp Now, will you state, as best you can recollect substance, the words used by Miss Cosgrove a painters, commencing with the first conversati

A. The first painters that we had in the bu working was the Superior Paint Company Kelly, and a man working for them. The part work being done was a dinette being painted

Miss Cosgrove objected to the degree of This was a pale green and sh

mony of Edna Lipphardt.)

l off the job.

Now, please state the next conversation and what you observed, but, as best you can recollect what was said by Miss Cosgrove.

I think the next group, Mr. Brewer and a Crovanshore; they again did work that Miss Cosgrove did not like.

What did she say? You must tell us what she said. A. I see.

That is the point. That is the point.

She didn't like the colors. The painters couldn't get the degree of color she wanted, or the right tone in the color.

That was the substance of the conversation? Yes, sir.

What happened to those painters?

They quit. Or she fired them; I am not sure of that. But, anyway, they were off the job.

Is that in substance the conversations that you had with the other painters?

I beg your pardon?

Was that the substance of what was said?

Yes, that seemed to be the main objection, was the color.

Do you recollect a conversation being had by Miss Cosgrove and the painters concerning painting
ment 323?

(Testimony of Edna Lipphardt.)

living room, in particular, and Mr. Kelly refused to do it because he said the paint was too good for the wall and it didn't need painting.

Q. What is Mr. Kelly's first name?

A. That I don't know.

Q. What is his employer's name?

A. The Superior Paint Company.

Q. They are here in Los Angeles, are they?

A. Yes.

Mr. Enright: You may cross examine. [29]

Cross Examination

Q. (By Mr. Whyte): Mrs. Lipphardt, are you still employed as the manager of the Four
Manor Apartments? A. No.

Q. May I ask when you left that position?

A. What?

Q. May I ask when you left that position?

A. On March 1st.

Q. Were you discharged by Mrs. Tidwell?

Mr. Enright: To which objection is made?

The Witness: Yes; Mr. Udall.

Mr. Enright: —on the ground it is incompetent, irrelevant and immaterial whether Mr. Udall, Mrs. Tidwell or anybody else doesn't believe this witness. It is immaterial as to her rendering services to this Receiver.

mony of Edna Lipphardt.)

Whyte: That was the purpose of the question, your Honor.

(By Mr. Whyte): You mentioned a Mr. [redacted] a painter, who walked off the job.

Yes.

Isn't it a fact that you told Mrs. Hallberg [294] wanted to get rid of Mr. Kelly on that

A. No.

Didn't you tell Mrs. Hallberg that Mr. Kelly was a friend of the former manager and that you wanted him around? A. No.

How long had it been before December 1, 1904, since the apartments had been painted at the Main Manor?

Now, let me understand your question.

Surely.

You mean any apartment in the building?

Yes. Can you tell me how often the apartments were painted under Mr. Richman?

Whenever they needed it.

Let's take a particular apartment. About how long did each apartment go, in point of time, before it would be repainted?

That would be dependent on the particular apartment. One apartment might be dreadfully faded and might have to be painted in six months, another might go two or three years. It de-

(Testimony of Edna Lipphardt.)

A. I am just speaking—you almost asked hypothetical [295] question, and I am answering it that way.

I said an apartment might become so soiled in six months, and have to be done, and another might go for two years.

Q. In either event, at the expiration of six months or six years or a few years the apartments would become dirty in appearance?

A. That is right.

Q. So that from time to time there were individual apartments at the Fountain Manor that were dirty in appearance?

A. Yes. Now, for instance, I might even bring up one that you may bring up later. Apartment 117, the bathroom needed painting very badly. The lady that lived there was an elderly lady who could not stand the smell of paint, and she asked us to come and paint it while she was in the apartment. Naturally that was in bad condition.

And another one you might bring up was Apartment 117. The man there was afflicted with a nervous ailment and he didn't want any work done while he was there.

Q. Now, how did you find your vacancies at Fountain Manor, Mrs. Lipphardt? What was the percentage of vacancy in the apartment building during the six months immediately preceding

mony of Edna Lipphardt.)

[296] apartments were vacant at any one

Yes, we would carry—I don't know percent—
at we would carry two or three vacancies.
ght go as high as five, and then maybe we
get down to one.

This was prior to December 1, 1953?

Yes. But you must remember we had 42
s and 6 triples, and big apartments naturally
cant more often than small ones. We would
e and six vacancies.

How was your vacancy factor from Decem-
1953, up to February 28, 1954?

There again, as I say, we ran—we might
ad as high as six, seven or eight at one time,
en be down again to two.

Was it about the same vacancy factor as had
ed prior to December 1st?

Yes, just about.

Whyte: Just a moment. I don't think I
ny more questions, but I would like to speak
client a moment.

(By Mr. Whyte): Do I understand you to
rs. Lipphardt, that the maximum time during
an apartment would be left unpainted was
three years?

I don't think I said it would be left un-

(Testimony of Edna Lipphardt.)

am just a poor lawyer and I don't really about these matters of managing apartment ings.

In any event, there were occasions when apartment in the Fountain Manor would go for three years without having been painted?

A. I wouldn't be sure of that, without looking up the records.

Mr. Whyte: I think that is all, Mrs. Lipphardt. You may step down as far as I am concerned.

Redirect Examination

Q. (By Mr. Enright): Are you employed by Mrs. Lipphardt? A. I beg your pardon?

Q. Are you presently employed?

A. Oh, yes.

Q. Where? A. At the Lakeview Apartments.

Q. Are you manager? A. Yes, sir.

Q. Apartment house? A. Yes.

Q. You have been there quite a while?

A. Yes; 94-unit building.

Q. Concerning this vacancy factor, do you recollect [298] how many vacancies there were when the Receiver took over, that day as compared with the vacancies on the day he left, February 2, 1935?

A. Without looking at the records, as near as I can remember the day he took over, we had 10 vacancies, which was being painted at the time.

mony of Edna Lipphardt.)

ou have been managing apartments in this
nity, that there is not as great a vacancy fac-
the winter months as there is in the summer

? A. That is true.

Enright: No further questions.

Whyte: No further questions.

(Witness excused.)

Enright: Thank you for accommodating
two witnesses.

she be excused?

Court: Yes.

Whyte: Shall I call my next witness, your
?

Court: Yes, please.

Whyte: Mrs. Hallberg, will you take the
please? [299]

CATHERINE COSGROVE HALLBERG

as a witness on behalf of the Receiver, hav-
en first duly sworn, was examined and testi-
follows:

Clerk: Please be seated.

: full name, please?

Witness: Catherine Cosgrove Hallberg.

Direct Examination

(By Mr. Whyte): You are the wife of Mr.
Hallberg, the Receiver in this action?

(Testimony of Catherine Cosgrove Hallberg.)

Q. Where did you go to school, Mrs. Hal

A. University of Minnesota.

Q. Did you receive a degree there?

A. I received a degree of Bachelor of Business Administration.

Q. In what year? A. 1932.

Q. Will you please state what, if any, business experience you had following your graduation from the University of Minnesota in 1932?

A. Yes, I was statistician for a branch office of Payne Weber & Company, and then in New York I was an account executive or investment counsel with Johnston & Longquist.

Q. Were you at that time one of two women investment counselors in New York?

A. Yes, based on the fact there were just two women in the organization of the Investment Counsel Association of America, when it was founded in 1938, or something like that.

Q. How long did you keep up your investment counseling work in New York?

A. I continued working until about 1942, shortly before our daughter was born; longer than that but——

Q. For how long had you been employed by Johnston & Longquist?

A. Until about 1940, I think.

Q. My question was for how long had you

mony of Catherine Cosgrove Hallberg.)

Had you had, Mrs. Hallberg, prior to this relationship?

Just the decorating experience, now?

Yes. Take decorating first and we will take keeping later, if that is necessary. Just decorating.

Well, from an early interest in the subject I went to the course at the Traphagen School of Design, as a consultant to a general overseeing of certain duties that some of [301] our clients had at Johnston & Longquist. We had a real estate firm employing them, but Mr. Johnston was interested in overseeing the real estate firm, to doing our various apartment buildings, assisting friends. I haven't been in for it commercially.

You mentioned the Traphagen School of Design. Where is that located?

That is in the 40's on Broadway in New York.

For how long did you attend that institution?

That was during the course of the one school.

What year was that?

It was just while I was at Johnston & Longquist. It was approximately '39, I believe.

How often did you attend classes there, Mrs. Hallberg?

(Testimony of Catherine Cosgrove Hallberg.)

Mr. Whyte: May I have the incinerator please, Mr. Enright?

Mr. Enright: They are here some place. Mr. Richman could help you. I am not familiar with them myself. Martin, Hahn & Camusi introduced them.

Mr. Whyte: The Canterbury, Mr. Richman.

Mr. Enright: You have the Oliver Cromwell.

Mr. Whyte: That is what I want.

Mr. Enright: You said the Canterbury.

Q. (By Mr. Whyte): Mrs. Hallberg, I call your attention to a file marked Oliver Cromwell Incinerator, and ask you whether you have seen that before?

A. Yes, I have, in the office.

Q. I show you a copy of a letter dated December 30, 1953, addressed to Mr. Roy E. Hallberg from John Whyte, reading:

“Dear Roy,

“I am returning herewith the files covering the installation of incinerator equipment at both the Canterbury and the Oliver Cromwell apartment buildings.”

Do you recollect having received the original of that letter on or shortly after the date it bears?

A. Yes, I do.

Q. Following the receipt of that letter, together with the files enclosed, did either you or Mr.

mony of Catherine Cosgrove Hallberg.)

f the incinerator equipment at the Oliver
rell and the Canterbury.

Yes. After we received the letter, it was just
one day after that, it was on the part of the
303] that all mail was always placed for Mr.
rg's attention, and he saw it and he said,
that is that. We go ahead. Attend to this,"
Harrison.

n't remember the exact words, but certainly
effect.

You received a warning notice from the smog
authorities on or about January 13th, is that

? A. That is correct.

What, if anything, did you or Mr. Hallberg
r presence do after you received that warning
?

Our first move was to call Mr. Manalis of the
re and told him about it immediately.

said it was quite all right, he would call the
ollution Control Authority and inform them
ney were going to progress the work, progress
the work as soon as possible, and that we
have to worry about it, he would take care

Who was it that called Mr. Manalis, can you

?

Mr. Hallberg said that he called Mr.

(Testimony of Catherine Cosgrove Hallberg.)

The Witness: I have called him and I know Harrison called him.

Mr. Enright: I move to strike the answer [304] responsive. The question was who called on that occasion.

The Court: Well, I take the answer to be both called him.

Mr. Enright: I don't know. I guess you deduct that.

The Court: Well, strike the answer. Ask the witness to try again.

Q. (By Mr. Whyte): I am speaking now of the conversation which took place with Mr. Manalis immediately after the receipt of the warning on January 13th, who called Mr. Manalis at that time?

A. Mr. Harrison called him the first time I believe.

Q. Were you present at that conversation?

A. There were so many calls to Manalis, I don't remember if it was the first time or not.

Q. Did Mr. Harrison report to you his conversations with Mr. Manalis? A. He did.

Q. What did he say?

A. He said that Mr. Manalis would take care with the Air Pollution Control Authority. They weren't to worry, and he would take care of it.

mony of Catherine Cosgrove Hallberg.)

Probably after the legal document came. I know what you call it.

By "legal document" you mean the citation, criminal complaint that was issued about January 7th?

A. Yes.

Following the issuance of that criminal complaint or about January 27th, what did you do? I went to the Air Pollution Control Authority. There were calls to Mr. Manalis first, and he said it was nothing, he would handle it, the most it would cost \$50.00. But, nevertheless, I went out to Mr. Gordon Larson's office.

There has been some testimony in this record in reference to the breakdown of refrigeration at Western Arms.

Now you tell us when you first—I mean you personally, Mrs. Hallberg,—when you first had knowledge that the refrigeration system had gotten into trouble at the Western Arms Apartment Hotel?

The afternoon of February 17th; it was on Wednesday.

Will you state what happened at that time,

I was in the building twice that day. The first time was about 4:30 in the afternoon, when I went back [306] to pick up some draperies.

I asked the young chap down in the service

(Testimony of Catherine Cosgrove Hallberg)

Q. This was the afternoon of the 17th?

A. This was the afternoon of the 17th.

Q. What, if anything, happened on the

A. On the 18th, when I got into the office Findeisen, who was in the office at that time, not Mr. Harrison, informed me that Mrs. K had called the previous evening. Am I allowed to say what she said?

Q. You can tell what Mrs. Findeisen said yes.

Mr. Enright: I object. It will be hearsay. She can't recite what she did. She received a phone conversation.

The Court: Let's follow Mr. Enright's suggestion.

Mr. Whyte: I beg your pardon?

The Court: Let's do what Mr. Enright suggested.

Mr. Whyte: I didn't catch his suggestion. That is the reason I inquired.

Mr. Enright: My point is the witness should not ask did she receive a telephone call. She did not say what she did, the acts. That is telling what happened, without [307] abusing the hearsay rule.

Q. (By Mr. Whyte): You received a telephone call on the 18th of February?

A. That is right.

Q. From whom?

mony of Catherine Cosgrove Hallberg.)
and overheard a telephone conversation between the California Refrigeration young chap and the year-old owner-manager of the concern, stating he didn't know what was wrong.

She had taken it upon herself to switch back to Daugherty of the Normandie Refrigeration, as she had known for a long time. He had been there that night. As a matter of fact, she mentioned she had called Mr. Richman.

and also telephone messages from California Refrigeration. By that time the die seemed to be cast I——

Enright: I move to strike the entire statement of her reporting on something that violates hearsay rule. Apparently she did nothing herself.

Witness: I phoned Mr. Hallberg immediately.

Enright: May I have the answer stricken?

Court: The motion is granted, except as to the statement "I called Mr. Hallberg immediately." That may stand. [308]

(By Mr. Whyte): You say you called Mr. Hallberg immediately. That was sometime on the evening of February 18th?

A. That was.

Do you recall about what time, Mrs. Hall-

(Testimony of Catherine Cosgrove Hallberg.)

The Court: I don't think so.

Mr. Enright: All right.

The Court: We are inquiring into the qualifications of Mr. Hallberg and those who worked with him. This question may be answered.

Mr. Enright: Very well.

The Witness: I explained to Mr. Hallberg that the California Refrigeration had quoted \$1000 repair price. They wished to flow out the gas. They inferred they were full of—I can't remember the word now—and that the Normandie Refrigeration had been on the job, had said they would put it back in running order without this operation. In other words, I gave him all the information.

Q. (By Mr. Whyte): Do you know whether anything, Mr. Hallberg did?

A. Mr. Hallberg, through having had experience—

Mr. Enright: I move to strike "through having had experience." [309]

The Court: That portion of it will have to be stricken out. You will just have to tell us what you saw or heard him say.

The Witness: Mr. Hallberg decided that—

Mr. Enright: I move to strike what Mr. Hallberg decided.

The Court: You can't tell us what was in his mind.

The Witness: Well, he told me that.

Q. (By Mr. Whyte): What did he tell you?

mony of Catherine Cosgrove Hallberg.)

d to go along with the Normandie Refriger-
theory; they were there, that was it. We would
they could do as they promised to do.

Did Mr. Hallberg, to your knowledge, go
to the Western Arms and inspect the refrig-
after it had been installed?

Yes. He came in later that day, oh, after it
en installed.

Tell us about when he came in and what he

He came in, we parked—we always parked
by that thing—came in and looked at it. I
ere with him, too. I met him.

I think we talked to John Daugherty's as-
, and he again decided that was where he
cast his opinion. [310] So we walked away
he thing was completed.

Is it your testimony that Mr. Hallberg and
lf visited the Western Arms on the 18th of
ary and inspected the refrigeration equip-

If you can say being there and watching a
it is inspecting, yes.

Mrs. Hallberg, were you present in the court-
when Mrs. Kennedy, the manager of the
en Arms, testified that either on the 17th or
f February, or the 18th or 19th, she was not

(Testimony of Catherine Cosgrove Hallberg.)

Q. Was Mr. Harrison present—was Mr. Harrison employed as the bookkeeper or in any capacity with the receivership either on the 18th or the 19th of February?

A. He was not.

Q. Who was in the office at that time?

A. Miss Findeisen.

Q. You recollect about when Mr. Harrison been discharged?

A. On February 12th.

Mr. Whyte: I have no further question direct, your Honor. [311]

Cross Examination

Q. (By Mr. Enright): Mrs. Hallberg, as I understand it, you phoned to Mr. Hallberg on the 18th concerning this refrigeration?

A. That is right.

Q. In the morning?

A. That is right.

Q. Where did you phone to him?

A. I phoned to him at Mr. Byram's office. He called back very soon after that.

Q. Had you ever told Mr. Harrison or anybody else that they could reach Mr. Hallberg in Mr. Byram's office?

A. I had not.

Q. So far as you know, no one knew that Mr. Hallberg could be reached at Byram's office or the County Assessor's Office, excepting yourself, is that correct?

mony of Catherine Cosgrove Hallberg.)

and observe Mr. Hallberg make the notations
hibit B?

I did not observe him make them on many,
occasions.

But on some occasions in the evening you
e him make his entry in his diary?

Some, yes.

That would be down there at your home at
a del [312] Mar?

He hauled that thing out frequently. I have
nem many times.

And that would be on occasions when you,
tell him what had occurred during your expe-
of the day?

I saw him take it out of his pocket on other
ns, too, Mr. Enright.

Will you answer my question as to this: He
make entries shortly after or at the time you
ed to him as to what occurred during the

Well, I wouldn't say all the time, no.

But usually that is what he did?

Sometimes.

Sometimes? A. Yes.

Enright: No further questions.

Whyte: Step down, Mrs. Hallberg.

(Witness excused) [313]

FREDERICK I. RICHMAN

called as a witness under the provisions of Rule 43(b) of the Federal Rules of Civil Procedure on behalf of the Receiver, having been first duly sworn, was examined and testified as follows:

The Clerk: Please be seated.

Your full name?

The Witness: Frederick I. Richman.

Direct Examination

Q. (By Mr. Whyte): Mr. Richman, you were formerly the trustee for the Richman Trust, is that correct? you not?

A. I was one of the trustees.

Q. Who was the other trustee, sir?

A. Lyda Tidwell.

Q. Is that your sister? A. Yes.

Q. For how long did you and your sister hold the position of trustees for the former Richman Trust?

A. From the time it was organized, November 1, 1945, [314] to take effect January 1, 1946, until the Trust was terminated sometime in March, 1954.

Q. Did you manage the Trust properties during that period, sir?

A. I was agent for the trustees, and I managed the properties.

Q. During that time you also carried on the business of the Trust?

mony of Frederick I. Richman.)

What do you mean by "very small," Mr. Enright?

Well, I got out of all court work, and it was limited to what matters I could handle, or, could be handled in my office, without requiring court appearances.

What type of matters did you handle in your office?

Oh, lease work, drawing corporations, con-

Who were among your clients?

For what period of time?

During 1945, '46, when you say the Trust was active until 1954.

Well, I couldn't give you a list of my clients, but I am going over my books and records, to see if I can find out who they were at the time. And I think, also, that this is probably a privileged matter as between attorney and client.

I am not asking for any communications that you had [315] with your clients, Mr. Richman. I am just asking you whether you did not represent more clients during that period.

Enright: To which objection is made on the ground that it calls for confidential matters. Thackery v. Superior Court, Supreme Court decision, holds that the name of a client is confidential matter.

(Testimony of Frederick I. Richman.)

Was a copy of that Order served upon you?

A. Yes, it was; copy that belonged to the
I had never been served and I was up in
believe, December 4th, and brought the po
and Judge Tolin directed that one of the
copies be served on me that day.

I had left word with you and Mr. Hallbe
the managers, to please come into my office
me, that I would take service. It was in court
served on about the 4th of December.

Q. You read over this Order, did you r
lowing its service upon you in court on o
December 4th? A. Yes.

Q. I ask whether or not you noticed the
graph on the third page of the Order com
at line 5: [316]

“It is further ordered that Plaintiff Ly
well and her attorney and the defendants an
attorneys, and all other persons and each o
be enjoined, and they are hereby restrained
disturbing possession of said Receiver or
manner molesting the said Receiver of t
property, or interfering directly or indirect
the administration of the receivership.” [3

You read over that language, did you?

A. I did.

Q. Following your reading of that la
sometime on or shortly after December 4th,

mony of Frederick I. Richman.)

I had a conversation, the first conversation—I had a conversation just at Christmastime. He told me to wish me a Merry Christmas, and I responded. The other conversation was, I believe, on the 29th of January, 1954.

Did you call Mr. Harrison on that occasion? I did.

Did you go out to see Mr. Harrison?

I called, endeavored to call Mr. Hallberg. I tried to call you, Mr. Whyte, and I couldn't.

I called Mr. Harrison. I went out and saw Mr. Harrison on January 30, 1954.

You talked to him at that time with reference to the administration of the receivership under Mr. Hallberg's guidance?

I talked with him at that time relative to the legal complaint that was filed and the warrant issued on the Oliver Cromwell incinerator matter. Yes. Are those the only conversations which you recollect having with Mr. Harrison during the receivership of Mr. [318] Hallberg's receivership?

No, I had other conversations with Mr. Harrison after he was no longer in the employ of Mr. Hallberg.

But the only two conversations you recollect having with Mr. Harrison was in Mr. Hallberg's

(Testimony of Frederick I. Richman.)

A. I think I had a conversation with him in the early part of February. He was interested in knowing how the court proceeding came out and what was going to happen. I called him and reported to him on that. I mean, that is the criminal proceeding at the Lincoln Heights jail.

Q. You called him and reported to him regarding those proceedings?

A. It is my recollection I did, yes.

Q. Mr. Richman, it is true, is it not, that you will say, during the period of the year immediately preceding December 1, 1953, while you were operating head of the former Richman Trust, that you received compensation equivalent to ten percent of the gross receipts from those properties?

Mr. Enright: To which objection is made? On ground it is incompetent, irrelevant and immaterial because what he received as a one-half owner-trustor-trustee beneficiary [319] agent, in a manner comparable to or in any manner relating to fees to be paid to a receiver. His particular facts make an entirely different rule applicable.

The Court: What he received as an owner is not be material. What he received as compensation for like services to those required to be performed by the Receiver, I think, would be proper.

Now, let's have the question and see if it is sufficiently narrow.

mony of Frederick I. Richman.)

and by the trust agreement, which my recollection is ten per cent of the gross income, exclusive of capital items.

(By Mr. Whyte): During the period when you were serving as the operating head of the Richman Trust, did you have managers at the various apartment houses? A. I did.

Under your direction and control?

There were managers at all the buildings, and as agent for the trustees they were under the direction of the agent.

Did you have a bookkeeper, either in your office or at one of the apartment houses, who kept the books for the trust operations? [320]

I want to answer your question correctly. There was no bookkeeper, as such, belonging to the trust.

I had a secretary and a bookkeeper. I have already said what they call a combination help in the office, a secretary and bookkeeper. And my secretary and bookkeeper kept the books of the Richman Trust. The Richman Trust never had a bookkeeper on its payroll.

Court: Who paid the secretary?

Witness: I paid the secretary out of mine. I paid the salary, all presents, all bonuses, the Social Security, unemployment on the secretary's sal-

(Testimony of Frederick I. Richman.)

The Court: —Frederick I. Richman, than of the Richman Trust?

The Witness: That is right. There was no charge for any overhead of any kind to Richman Trust.

The Court: Were the managers of the apartment houses employees of Frederick I. Richman, or employees of Richman Trust?

The Witness: They were employees of Richman Trust.

Q. (By Mr. Whyte): What duties did your secretary in the office perform, other than those connected with the Richman Trust? [321]

A. Secretary to me. Take my dictation, typing, keep my personal books, keep my account books, and there were about four other sets of books in the office that my secretary kept, as well as keeping the Richman Trust

My secretary got out the Richman Trust papers, took off the monthly statements and typed them up for me of the Richman Trust, and did whatever had to be done in the office.

Q. So that when you say that you paid your secretary out of your own pocket, you were paying him, not only for the work he did in connection with the Richman Trust, but for taking your dictation, typing your letters, keeping other

mony of Frederick I. Richman.)

Richman Trust to keep a full-time book-busy or a secretary busy.

Who picked up the rents at the apartment during the time you were operating head of Richman Trust?

I generally did it. On occasions my secretary

By your secretary you are referring to Mr. Harrison?

I am referring to Mr. Harrison. I am referring to Miss Bowman, when she was my secretary, and Mr. Steiner, when he was my secretary, Mulberg, or whoever happened to be [322] my secretary at the time.

Did your wife ever assist you in connection with the management of the five apartment buildings of Mr. Richman?

My wife assisted me to a certain extent, in connection with the work when painters, upholsterers, and carpenters were there, to pick out color schemes and decorations, and on occasions to set up the units when the work had been done.

Did she receive any compensation for that? She did not. In fact, on those days she accompanied me I bought her lunch for her and never drew anything from the Trust for it.

You are familiar, I am sure, Mr. Richman,

(Testimony of Frederick I. Richman.)

Q. During your regime as trustee you made payments on accounts of that trust deed, did you?

A. I did.

Q. When did those payments fall due, Mr. Richman?

A. 1st of the month.

Q. Did you ever make any payments on accounts of that trust deed before the 1st of the month?

A. The records would be the best evidence of that. My recollection is on a few occasions but generally they were made between the 1st and the 5th of the month. The [323] reason for that being the payroll was generally dated the last of the month and was gotten out on the 1st of the succeeding month.

As soon as the payroll was out of the way then we could proceed to date the date of the payroll for the month and it would be around somewhere from the 2nd to the 5th, generally.

Q. You recollect, do you not, Mr. Richman, that Mr. Hallberg and I came to your offices on or about December 3rd and you were kind enough to spend several hours with us, in connection with Mr. Morrison, whom I think was present, too, explaining the nature of the assets and properties, some of the problems connected with their management and you recall that conversation, do you not?

A. I do. I am not too sure of the date, but it was in that time.

ony of Frederick I. Richman.)

t deeds and original papers which you had possession pertaining to the Trust.

did.

You turned over those files, for the most December of 1953, is that not true?

Mr. Hallberg was desirous of obtaining the My recollection is that on the day you were that he [324] took out the envelopes representing the title instruments covering the properties and a receipt that day.

Next day I drew up the set of the current files. And then on Saturday the 5th of December Mr. Hallberg came down and picked up the files. They were in one filing case of mine, I loaned to Mr. Hallberg, to keep them in, along with a key to it. I might add the filing has been returned, but the key has not been returned yet.

Two weeks later, on a Friday, Mr. Hallberg came and wanted to know if he could pick up the files—we will call them dead files—of transfers that had been closed of Richman Trust, and to pick them up on a Saturday.

He informed him that it would take some time to get the receipt. He suggested that he would send Harrison down.

(Testimony of Frederick I. Richman.)

the receipts ready by the time he got in from na del Mar, which was done.

They were worked up and he receipted f on Saturday, I believe, the 18th, or some there, of December; whenever it was a Sa He had me down working on a Saturday.

I told him I didn't particularly want to was near Christmastime and I was busy, said that he wanted the records so that he be criticized by the court and he had better them up on Saturday. I didn't know that working for the County of Orange and that only free time at that time.

Mr. Whyte: I move that be stricken as sponsive to the question, the last sentence.

The Court: Motion granted.

The Witness: He took out the files. I t when they went out that I thought I had over everything to him, that the matter ha involved in litigation for almost two years files had been up in court and opened up, a here and there, but to the best of my know turned everything over to him.

But that if I found anything else at any the future, that I would immediately transm to you. So he loaded them in the car and away.

Q. (By Mr. Whyte): Sometime in Jan

ony of Frederick I. Richman.)

don't want to use the word "file." The correspondence regarding the Oliver—or, the parapet Canterbury was only about four or five letters were lying on top of my desk in a stack for my purposes, I [326] label in my mind as not pressing, awaiting future correspondence before action has to be taken.

don't want to send that document and other documents like it back to my filing system, to be a file in a cabinet and be lost and forgotten. So they are kept on top of my desk.

never it was, and I think it was the latter—I was awaiting a further letter from the Engineering and Safety Department. This pile stays on top of my desk and it is never touched. Whatever the date of the letter was, that was received from the Building Department, I immediately dug up other papers and clipped them together and with the letter and sent them out to Mr. Hallberg; whatever the date was.

There was only about five or six letters in the file. It was not a regular Manila file, such as other files were, as he had picked up papers and was never kept in the filing cases.

I believe you told us previously that your position was the operating head of the assets and properties constituting the former Richman

(Testimony of Frederick I. Richman.)

Q. By that do you mean that any legal services which [327] you performed for the Trust were included within the ten per cent gross receipts that you received? A. Yes.

Q. You made no further charge of any kind for your legal services, in connection with the administration of the affairs of the former Richman Trust? A. That is correct.

Mr. Whyte: No further examination at this time, your Honor. * * * * * [328]

Los Angeles, Monday, May 17, 1954, 1:30 p.m.

The Court: We will have to take one or two interruptions, which I don't think will be very long this afternoon, but we will have to do it in order to get this matter done today.

You may proceed.

Mr. Whyte: Inasmuch as Mrs. Kennedy, the former manager of the Western Arms Apartments Hotel, will not be here until 2:00 o'clock, I will proceed to put on the case with reference to the fees of the attorneys for the Receiver.

In that connection I should like to take the witness myself, to testify briefly. My expert witness is Referee Hunt's courtroom on the third floor. I will request one of my clients to go up and get him there so that no time will be lost.

The Court: Well, if you outline what you have done, the court is always supposed to be a

you have done. If you want to enumerate that, it will suffice.

Whyte: Whatever your Honor's pleasure is, I am willing to build a record here which would be binding for all purposes, and if you would like to have the expert we can bring him down. If you do not to have him——

Court: It is entirely up to you, whether you [331] to have him or not. You might be happy in your own mind if you do.

Whyte: Very well.

Court: We will take a few minutes for this case.

(Other court matters heard.)

Court: We will return to the Tidwell case.

Whyte: I would like to call myself as a witness if I may take the stand, please.

Court: All right.

JOHN WHYTE

on behalf of the Receiver, first being duly sworn, testified as follows:

Direct Examination

Clerk: State your name, please.

Witness: John Whyte. First, I had better state for the record, that I have performed each one of these services enumerated in my original

(Testimony of John Whyte.)

That Petition has been verified by me and hereby affirm that I have performed each and of those services.

I further affirm that my partner, Richard Patrick, devoted a very few hours to this matter. The great bulk of the work has been done by me so that I will refer to myself [332] as the attorney for the Receiver.

I further affirm that I have performed each and all the services enumerated in Paragraph 3 of the "Supplemental Petition for Allowance of Fees of Attorneys for Receiver", filed herein on the day of this hearing.

Those two Petitions cover a period during which services were rendered commencing on November 30, 1953, up to and including May 10, 1954, which is the last date upon which services were performed as specified in the Supplemental Petition.

It is further my testimony that on May 11, 1954, I performed the following services, to which I devoted a total of five hours:

"Telephone call from Hallberg re evidence presented at hearing on May 12th. Figuring breakdown of hours of attorney's time for inclusion in Supplemental Petition for fees to attorney for Receiver.

"Studying Hallberg's deposition. Conference with Jefferson Mann, in preparation for his direct

mony of John Whyte.)

on for Mr. Mann, the expert witness, as to
value of the Receiver's services."

The court knows, I have been engaged in de-
fending the [333] Receiver against the objections
therein by defendant Richman to the Receiver's
Petition for fees during the course of
hearing, which has continued for, between two
and three full court days.

I wish to testify further concerning the follow-
ing matters:

Contrary to the Receiver's possible misapprehen-
sion, I was not advised of the January 13, 1954
warning notice, received with reference to
issuing from the Oliver Cromwell.

With regard to the conversation——

Enright: Just a moment. I move to strike
the witness' statement this was a warning notice.
It is, in fact, a citation from the Authority.

Witness: I will let the document speak for

Enright: Then I move to strike your words
conclusion on your part.

Court: The words "warning notice" will
be stricken.

Witness: May the record show I am refer-
ring to the notice dated January 13, 1954?

Court: Is it in evidence?

Witness: I am not sure. Do you have the

(Testimony of John Whyte.)

The Witness: Merely that it specifies what document [334] is. It is a notice dated January 1954, directed to the Oliver Cromwell Apart Hotel:

“You are hereby charged with violating Section 24242 of the Health & Safety Code of the State of California by discharging smoke in excess of that allowed from chute fed incinerator.”

Perhaps before I forget it, this would be a good time for me to offer in evidence the whole of the deposition, which has been taken in this cause.

Mr. Enright: To which objection is made on that ground the witness is here available to testify. The deposition was merely taken as an aid in discovery. He can testify.

The Court: I think under Rule 26 it is admissible, isn't it, Mr. Enright?

Mr. Enright: I suppose within the discretion of the court. But I think it is perfectly clear that this witness, being an attorney at law, should be able to testify as to what services he rendered.

The Court: Well, we will look primarily to the deposition. The Rule allows the testimony in. If it is admitted.

The Witness: With reference to the conversation had with Judge Tolin on the evening of March 7th, that being a Sunday, March 7, 1954, I can state the following:

I was present in Mr. Hallberg's home at C

mony of John Whyte.)

in regard to services rendered or materials furnished to the receivership during the month of February 1954, where the creditors' bills or statements were not received until after March 1. We were concerned as to whether or not those bills should be paid following March 1, when the Order entered by this court on February 28th had purported to terminate the Receiver's active duties and management as of 5:00 o'clock p.m. on February 28th.

Hallberg telephoned Judge Tolin in my presence and put the problem to him. I then came on the following day.

I mentioned to Judge Tolin that we had this problem concerning bills covering materials furnished or services performed during February of 1954 where the actual statement was not received before or after March 1.

I explained that I had contacted the attorneys for the plaintiff and the defendant, and that Mr. Tolin was opposed to the Receiver paying those bills and that Mr. Camusi was agreeable that they should be paid by the Receiver.

Judge Tolin then and there instructed me to pay the bills, that is, that the Receiver should pay the bills and those payments are evidenced by the receipts which is attached to the Receiver's report

(Testimony of John Whyte.)

Oliver Cromwell and the [336] Canterbury
ment Hotels.

Mr. Enright: May I move to strike the
“inability” and may I request that the witne
tify only to those matters he knows of hi
knowledge, rather than hearsay?

The Court: Motion granted.

The Witness: I note from my time slip o
ruary 3, 1954, that I made a notation of a tele
conversation with Mr. Tow of Air Pollution
trol District re conference with City Attorne
inability of Oxyaire to perform their contr
Canterbury.

Mr. Enright: I move to strike the stat
and the notation as being hearsay. So far as
man is concerned, it all arose after the cri
citation.

The Court: May I have it read, please?

(The answer was read.)

The Court: Motion denied.

The Witness: In that connection I recall
had a telephone conversation with Mr. Mana
or about that date, during which I was advise

Mr. Enright: Just a moment. I object to
he was advised as being oral hearsay. If the
fact he spent his time in having a conver
may be a basis for compensation, that is one
but what Mr. Manalis told him is certainly he

mony of John Whyte.)

publishing the quality of conversation had been the two. Objection overruled.

Enright: "Quality" did I hear your Honor

Court: Yes. I mean the kind and type of with which he was called upon to deal as an y.

Enright: Very well.

Court: I am not appraising it as to good, poor.

Witness: Mr. Manalis stated, in substance, particular metal used in the dampers, which be installed in the incinerators at the Oliver ell and Canterbury, was in short supply. they did not have enough of that metal to put incinerator equipment promptly.

that in mind, I called Mr. Tow, as I have ed, from the reference to my time sheet.

Tow asked me to write him a letter, he being

Tow telling me he was concerned about the dity that Oxyaire might not be able to get incinerator equipment installed properly.

en wrote a letter to Mr. Tow dated Febru- 1954, if counsel would like to see it.

Enright: I have seen it. Go ahead.

(Testimony of John Whyte.)

“Air Pollution Control District, 5201 South
Pedro, Vernon, California

“Attention Mr. Tow

“Gentlemen:

“Following my telephone conversation with
Mr. Tow yesterday afternoon regarding the ins-
tation of Oxyaire, by Oxyaire of smog control e-
ment in incinerators located at the Oliver C-
well Apartment Hotel, 418 South Normandie
Angeles, and the Canterbury Apartment I-
1746 Cherokee, Hollywood, I discussed the m-
over the telephone with Mr. Manalis, one of th-
ficers of the Oxyaire.

“Mr. Manalis informed me that his company
not on hand sufficient material to install suc-
cinerator equipment, which is in somewhat
supply throughout the country. Mr. Manalis
ther stated that his company would commence
work of installment at the Oliver Cromwe-
Monday morning, February 8th, and the Ca-
bury a few days later. He estimated it would
two to three weeks to complete the installation.

“I trust this information will be helpful to

“Yours truly,

“John Whyte, Attorney for Roy E.
berg, Receiver for Assets of the fo

mony of John Whyte.)

Now on hand sufficient material of this heat-resistant type metal to make the installation, regarding a change in his statement to me, which was made within the previous 24 hours, I believe.

Now, in reference to the reason why the Receiver's report was not filed within the normal time—was not filed as soon as it was contemplated, referring to my time slip for January 29, 1954, states: "I had a telephone conversation with Judge Tolin regarding the Receiver's first report. The judge decided to refer to Rule 18(b)——"

Now, the local rules, Southern District of California,

—and postpone filing report until March 20, so that it might cover a full three-month period.

Regarding the date upon which Mr. Harrison was discharged from the Receiver's employ, this testimony has reference to the statement made by Mrs. Kennedy that she talked to Mr. Harrison on either the 17th and 18th or the 18th and 19th of February, and was informed by him that Mr. Hallberg could not be found.

I believe Mrs. Kennedy stated that was a call to her office at the Oliver Cromwell, where she reached Mr. Harrison, so she said.

My time slip for February 12, 1954, records the following notation: [340]

(Testimony of John Whyte.)

Cross Examination

Q. (By Mr. Enright): Now, with reference to Mrs. Kennedy, she did testify she called the office of Mr. Hallberg at the Oliver Cromwell, did she? A. Yes, I so understood her.

Q. On cross examination you asked the last question, did she talk to Mr. Harrison? She answered she thought she did, is that right?

A. She didn't testify she thought she did, she stated positively she did.

Q. The man at the office. Will you refer to the time sheets? A. (Witness complies.)

Q. You have them in front of you?

A. I do.

Q. You are seeking compensation for hours expended approximately 93 hours, that is, the hours in support of your Petition, original Petition?

A. The time set forth in the original Petition is approximately 91 hours. The time set forth in the Supplemental Petition, with reference to the services performed in connection [341] with the administration of the business and affairs of the former Richman Trust, is 8.7 hours.

Q. Now, as I understand it——

A. That excludes the services I have rendered in connection with defending the Receiver and the attorneys against the objections filed by defendant Richman.

Q. As I understand your position, it is this:

mony of John Whyte.)

92 hours and you desire to be paid \$3,000.00, right?

I have specified, I believe, in my Petition, my Petition specified a figure of \$3,000.00 for ordinary legal services heretofore necessarily rendered from and after November 30, 1953, to including March 17, 1954, together with such sum as the court may in its discretion determine to be a reasonable attorney's fee for the ordinary legal services performed during that period.

Will you please answer yes or no? You want \$3,000.00 for your ordinary services, is that correct?

That is correct.

And you want an additional sum to be fixed by the court for extraordinary services?

If we are speaking of the period between November 30, 1953, and March 17, 1954, I do. I consider the service rendered in connection with the hearing of the criminal [342] citation in re smog inspection is an extraordinary service.

And for the ordinary services you would desire to be paid in excess of \$30.00 an hour for time expended, is that correct?

I think it figures out to just about \$30.00 an hour.

That is, 90 into \$3,000.00, it is more than \$30.00 an hour.

(Testimony of John Whyte.)

A. That is true.

Q. You expended six hours on December 1st that correct?

A. Correct.

Q. That was before your appointment?

A. Yes. I was not formally appointed until 2nd.

Q. And on December 1st you feel you were rendering legal services when you went with the Receiver to the Union Bank and visited the apartment houses?

A. I do. My presence at the Union Bank—where they are asking for my belief and my opinion—my presence at the Union Bank was necessitated because we had a legal matter of transferring the old account in Mr. Richman's name to a new account in Mr. Hallberg's name as Receiver. [343]

I, in fact, wrote out for the bank officials exactly the language which I wanted on that account.

In so far as the visits to the apartment house managers is concerned, Mr. Hallberg requested me to go with him, meet them and explain the change in the legal situation which had taken place as a result of his appointment as Receiver.

Q. He hadn't been yet appointed, had he? If he had been no order appointing him yet?

A. The order appointing Mr. Hallberg Receiver was filed herein on November 30th.

Q. That is the decision of the court to appoint him, isn't that right, Mr. Whyte? Could you answer

mony of John Whyte.)

Yes.

My office file contains the following docu-

caption, "Order Appointing Receiver," with
Clark's filing stamp November 30, 1953, on it.

This is the Order whereby Mr. Hallberg is ap-
pointed Receiver of all the real and personal prop-
erty constituting the former Richman Trust.

Had he qualified at that time?

I beg your pardon?

Had he qualified and filed his oath on De-
cember 1st?

No, I do not think his bond was filed until
the 1st of December. [344]

So he wasn't qualified to act until his bond
was filed and his oath had been filed, isn't that
so, Mr. Whyte? You knew that, didn't you?

I can't answer that. That is a legal conclu-
sion as to whether he was qualified to act.

Before he filed his oath you were his attor-
ney and participated in his filing his oath and filing
the bond, didn't you?

Yes, I participated in filing his bond.

That was on December 2nd, wasn't it?

Yes.

Before you had done that, you went to the

(Testimony of John Whyte.)

A. In only one instance was any money turned over to us.

The Court: That wasn't the question. The question was whether you went and advised manager to turn over money?

The Witness: I believe we did.

The Court: On what authority, since he had not been qualified as Receiver?

The Witness: As I view it at this time, I think the authority was probably erroneous, your Honor.

Q. (By Mr. Enright): You want to be paid six hours at \$30.00 an hour for that erroneous advice, don't you? [345]

A. If that six hours is erroneous advice, I can't bear in mind some of that six hours was for services performed at the Union Bank, which I have just mentioned, then the court is at liberty to disregard it.

Q. Now, just what authority did you have to go to the Union Bank or Mr. Hallberg on December 1st and tell the Union Bank——

The Court: He has answered that he had no authority to have any.

Mr. Enright: Very well, then.

Q. (By Mr. Enright): So the same would be true about your services at Union Bank that day?

A. May I explain my answer, please? We were faced with the practical situation that there

mony of John Whyte.)

e of the bank account immediately, in order
ose checks could be handled.

t that that account matter should be taken
at once, and I would do it again if I were
same position.

Court: Wouldn't it be better to rush up here
e bond for the Receiver and get him quali-
st?

Witness: We had a little difficulty getting
nd, your Honor. There were several conver-
with the—if you will permit me to get my
ps——

(By Mr. Enright): Please read your time
December 2nd about getting qualified. [346]
I will be glad to. The time slip for Decem-
—this is Mr. FitzPatrick's time slip—"Hall-
me in at 9:00 a.m. re his bond as Receiver.
honed Hecht at F & D. He said that he had
sked last night by Richman to put up a
deas bond on appeal. That if a writ of
deas were issued we might not be able to
the premium on our bonds out of the assets
receivership.

therefore wanted to wait until the issuance
bond, to see if a supersedeas were issued. I
d this to Mr. Hallberg. We agreed to wait
ur.

(Testimony of John Whyte.)

away and he would see that the premium was out of the receivership assets.

"I phoned Hecht and told him that if he was able to issue the bond we would get it else. He then asked if it was O.K. for him to tele. Judge Tolin and I said yes.

"He called back in a few minutes and said we would issue the bond. I gave him the title court and cause, and Hallberg went over to the office to get the bond. Whyte came in and reported to him what had happened."

Q. That is the services rendered that day, correct, by your associate, Mr. FitzPatrick?

A. Yes. [347]

Q. Now, concerning your extraordinary fee you desire to be paid, will you refer to your December 27th time sheet? A. Gladly.

Q. You spent .3 of an hour on that day, did you not? A. I did.

Q. And the .3 of an hour was expended on the smog control contracts that later resulted in the criminal citation, isn't that right?

A. My sheet shows, "Examination of files for reference to installation of incinerator equipment for Canterbury and Oliver Cromwell and liaison of Receiver to carry out contracts for such installation."

Q. You advised Mr. Hallberg that he should carry out the contract as a result of your letter?

nony of John Whyte.)

and binding, that they should be carried out. The balance of the purchase price, which I was 90 per cent, was not to be paid until the installation had been performed and worked by the Air Pollution Control District.

Then you wrote a letter of transmittal on December 31st, transmitting the smog control file to Mr. Hallberg? That is all there in the file, isn't it?

My office copy is dated December 30, 1953, and is marked [348] to Mr. Roy E. Hallberg at the Cromwell Apartment Hotel.

Roy:

"In returning herewith the files covering the citation of incinerator equipment at both the Cromwell and the Oliver Cromwell apartment buildings."

The next event, so far as your rendering of legal services, was on January 27, 1954, you received a telephone call from Mr. Harrison or someone that the citation, the criminal complaint had been filed January 27th?

I believe that is correct, Mr. Enright.

That was .2 of an hour on that criminal matter and other matters on that date, isn't that correct?

Yes. My time slips for January 27th show .2 of an hour. "Telephone call from Harrison re

(Testimony of John Whyte.)

Q. It wasn't until January 29th that you phoned Mr. Richman that he was named as a defendant in that criminal complaint, was it?

A. I don't believe I knew on the 27th that Richman was a defendant in the criminal complaint.

Q. But you did phone him on the 29th?

A. I phoned his office and left word at some time between 4:30 and 5:00 o'clock in the afternoon. [349]

Q. On February 1st you appeared in criminal court and expended 2.6 hours in handling that appearance, plus other matters, is that right?

A. I expended 2.6 hours on February 1st on a number of matters.

Q. Among the number of matters you attended to was this citation of this return of the criminal complaint?

A. Yes. I made an appearance in Department 30-A, Los Angeles Municipal Court, in re arrest of the City of Los Angeles vs. Richman and Connell.

Q. The total time expended was 2.6 hours?

A. For that and a number of other matters, which, I suppose, I had better read into the record.

Q. All right. Go ahead and read from the exhibit sheet for that day.

A. The appearance in Department 30-A I have already noted. The matter was set over until January 22nd at 9:30 a.m.

mony of John Whyte.)

that Oxyaire gets to work immediately on
tion of smog control equipment.

ephone from Mrs. Hallberg re result of
hearing. Dictating draft of first report of
er and Petition for Instructions and revising
ne." [350]

Court: Before we proceed further, I have
that Mr. Laugharn, who has been sitting
or some 15 minutes, has come in from an-
court to which he wishes to return, and he is
ess here.

it be agreeable with whoever wishes to call
call him now? We can suspend Mr. Whyte's
e examination until after that is done.

Enright: So far as I am concerned, yes, sir.

Witness: Thank you.

(Witness temporarily excused.)

HUBERT F. LAUGHARN

on behalf of the Receiver, first being duly
testified as follows:

Clerk: State your full name, please?

Witness: Hubert F. Laugharn.

Direct Examination

(By Mr. Whyte): Where do you reside, Mr.
arn?

620 South Irving Boulevard, Los Angeles

(Testimony of Hubert F. Laugharn.)

Q. What is the name of your firm?

A. Craig, Weller & Laugharn.

Q. What is your office address?

Mr. Enright: I offer the stipulation that Laugharn [351] has practiced law in this community for a great period of time. He specializes, I think, in bankruptcy, if that will be of any use, and the general practice of law.

Mr. Whyte: I appreciate your offer to stipulate to the qualifications of the witness, but I would ask a few questions, if I may.

Q. (By Mr. Whyte): Where was your office located? A. Where is it now located?

Q. Yes.

A. 817, 111 West Seventh Street Building in Los Angeles.

Q. In what year were you admitted to the bar in California? A. 1923.

Q. Have you practiced law continuously since that date? A. No, I haven't.

Q. For what period of time did you have no work in this area?

A. From 1941 to 1948 I was Referee in bankruptcy.

Q. Were you appointed Referee in bankruptcy by the judges of this United States District Court for the Southern District of California?

A. Yes, I was.

Q. In what specialty have you engaged in

mony of Hubert F. Laugharn.)

t, [352] bankruptcy, liquidation, out of court
ent of creditor and debtor problems. I think
obably would describe it.

Court: Mr. Laugharn, Mr. Enright is hav-
able hearing you.

Witness: I am sorry.

Court: This is a much larger courtroom
e one you have upstairs. It is kind of hard

Witness: I am sorry. I would say it was a
what you would call a firm that has a gen-
actice, probate, commercial law. I don't know
yone in the firm has ever handled a crim-
tter, but I would say general otherwise.

By Mr. Whyte): Have you ever been ap-
a Receiver in any court action?

Yes, I have been Receiver in quite a few
atters, trustee.

Have you been appointed a Receiver in the
District Court?

Yes, on quite a few occasions.

Also in the state courts?

Yes, on a number of occasions.

Have you acted as an attorney for a Re-
appointed by either United States District
or one of the state courts in California?

Yes, upon quite a number of occasions. [353]

direct your attention to the petition "Peti-

(Testimony of Hubert F. Laugharn.)

A. Yes, I have.

Q. I further call your attention to the "Submental Petition for Allowance of Fees to Attorney for Receiver" filed herein on or about the first of this hearing, and ask whether you have examined that document? A. Yes, I have.

Q. I direct your attention to a copy of the deposition of John Whyte filed herein, and ask whether or not you have read that deposition?

A. Yes, I have.

Q. I refer you to documents entitled——

A. Just a minute. Could I just——

Q. Of course, Mr. Laugharn.

A. Yes. I knew the deposition I read a number of corrections in it and I notice some of them here in pen and ink.

Q. I direct your attention to a document filed herein on November 30, 1953, entitled "Order Appointing Receiver", and ask whether or not you could recollect having read that document?

A. Yes, I read this. [354]

Q. I call your attention to a document filed herein on December 2, 1953, entitled "Petition for Authority to Employ Counsel", and ask whether or not you have read that document?

A. Yes, I have.

Q. I direct your attention to a document filed herein on December 18, 1953, entitled "Petition for Authority to Pay Christmas Bonuses" filed herein on December 18, 1953.

mony of Hubert F. Laugharn.)

I next direct your attention to a document
 "Petition for Authority to Renovate In-
 cluded Among Assets of Former Rich-
 man Trust" filed herein—I am not certain of the
 and ask whether or not you have read that
 document? A. Yes, I have.

Next I call your attention to a document en-
 titled "Objections and Answer to Report and Peti-
 tion of Receiver and his Attorney for Fees" filed
 on or about April 7, 1954, and ask whether
 you have read that document?

Yes, I have.

Mr. Laugharn, please assume the following

Whyte, the attorney for the Receiver, has
 been engaged in the active practice of the law in
 Los Angeles, California, for a period of from 12
 years; [355]

For 10 years he was associated with the office
 of Selveny & Myers, one of the leading firms of
 attorneys in this city;

On or about December 1, 1953, he was employed
 as attorney for the Receiver herein and has con-
 tinued at all times to represent the Receiver;

The Receiver was removed from his active du-
 ty in the management of the business and affairs of
 the former Richman Trust on February 28, 1954;

(Testimony of Hubert F. Laugharn.)

formed certain necessary services after February 28, 1954, in connection with the administration of the business and affairs of the former Richman Trust;

Assuming further that Mr. Whyte performed or substantially all of the services specified in the Petition and Supplemental Petition for Allowance of Fees for Attorney to Receiver, exclusive of services necessarily rendered by him in defending the Receiver and his attorneys against objection by defendant Richman to the Report and Petition for Fees of the Receiver and his Attorneys, said services were performed commencing about December 1, 1953, to and including March 1954;

The time devoted by Mr. Whyte to the rendering of said services, excluding services rendered in defending the [356] Receiver and his attorneys against the objections raised by the defendant Richman to the Report and Petition for Fees of the Receiver and his attorneys, has been approximately 100 hours;

The assets of the former Richman Trust, which has been administered by the Receiver, have a market value of approximately One Million One Hundred Thousand Dollars;

On the basis of these facts, what is your opinion as to the reasonable value of such services?

A. Well, in my mind I have divided the

mony of Hubert F. Laugharn.)

his administration and up and through the
ation of his Report and the presentation
in securing the discharge of the Receiver
normal type of case. The period involved
proximately three months; a few days prob-
ort of that.

idering the size of the problem, the size of
e, the extent of the assets to be administered,
ormal problems that were encountered, it
seem to me that a compensation of \$1,000.00
h would not be excessive; considering all of
lements.

the rest of the problem, including the ob-
s to the Receiver's Report and the contended
ges——

May I interrupt, Mr. Laugharn, to ask
r I [357] might put a further hypothetical
n to you on those services, and then let you
that just as you see fit. A. Yes.

Please assume the following further facts:
he Receiver was relieved of his active du-
management of the assets of the former
an Trust on February 28, 1954, the defend-
ein, Frederick I. Richman, filed written ob-
s on or about April 7, 1954, to the Report
tition of the Receiver and his attorneys for

objections contained charges that the Re-

(Testimony of Hubert F. Laugharn.)

It is further claimed in said objections that the reason of improper performance of his duties the Receiver should be surcharged in an amount approximately Eight Thousand Dollars;

John Whyte, the attorney for the Receiver, has undertaken the latter's defense against each and all the charges against the Receiver specified in said objections.

In that connection Mr. Whyte has devoted between 16 and 17 hours prior to the commencement of this hearing to the defense of the Receiver against the charges made against him, as set forth in the objections filed herein by defendant's counsel; man;

Such hearing has continued for from two to three full court days; [358]

On the basis of these facts, do you have an opinion as to the reasonable value of Mr. Whyte's services in defending the Receiver against the above mentioned objections filed to the Receiver's Report and Petition for a Fee herein?

A. Well, assuming the elements that you have given, some of which I am not familiar with without preparation, but assuming that amount of time was necessary and assuming the disposition of the problem did require three court days before the court, it would seem to me that—and assuming a fair degree of success, although I don't know

mony of Hubert F. Laugharn.)

amount of from \$350.00 to possibly \$550.00
0.00.

Whyte: You may cross examine.

Cross Examination

(By Mr. Enright): Mr. Laugharn, I would
find out how you arrived at this \$350.00 to

A. Well,—

May I pursue my question?

How I arrived at it?

May I pursue my question a little more?

I see.

So I can point out my difficulty.

Excuse me. [359]

As I recollect your answer, you said that
ere about three days involved on the hearing
secondly, I assume you took into considera-
e statement by Mr. Whyte, in his question,
was surcharges of \$8,000.00. Is that right so

I took into consideration all of the elements
requested me to take into consideration.

And then you ascertained approximately
ays and arrived at the conclusion of \$350.00
.00, is that it?

Yes, that was my general conclusion.

So that would be at the rate, for three days
0.00 a little over a hundred?

(Testimony of Hubert F. Laugharn.)

three days. Now, the thousand dollars a month take it you fix that based upon the fact the \$1,200,000.00 worth of assets?

A. That is one of the elements that I have in my mind.

Mr. Enright: I have no further questions.

Mr. Whyte: No further redirect.

The Witness: I know both of the gentlemen involved in this litigation, if the court please. I was asked to testify and felt it was my duty.

The Court: You don't need to explain. [36]

Mr. Whyte: May I ask one more question?

The Witness: Yes, sir.

Redirect Examination

Q. (By Mr. Whyte): Did I understand your answer to be that on the basis of three full days devoted to this hearing, that you felt that the thing from \$350.00 to \$550.00 was adequate compensation?

A. That is my opinion, yes, sir.

Q. What additional compensation, if any, do you think should be awarded for time of approximately 16 to 17 hours devoted prior to the hearing and the preparation of the case in defending the Replevin against those objections?

A. I included that period of preparation in my estimate.

Mr. Whyte: Thank you, sir.

ony of Hubert F. Laugharn.)

Witness: Yes, that was my theory.

Enright: 28 hours. That is all.

Witness excused.) [361]

JOHN WHYTE

is a witness on behalf of the Receiver, having previously duly sworn, resumed the stand testified further as follows:

Cross Examination—(Continued)

By Mr. Enright): Now, Mr. Whyte, you advise Mr. Hallberg of the possibility of being criminal citation issued in the event log contract was not performed?

No, I don't believe that I did.

I got the impression that the sole reason for giving the report was because of an order made by the court on January 29th, according to your 29th notes, isn't that right?

I didn't mean to convey the impression that was the sole reason.

As a matter of fact, you spent 1.1 hours on January 19th counseling with Mr. Harrison or Mr. [unclear] in an effort to prepare, commence to prepare the report, in accordance with the court's

What was that date again, Mr. Enright?

January 19th.

(Testimony of Maude Kennedy.)

Western Arms, Report from 10-30-1953 to 1953'', and I will ask you whether you can identify that document?

A. This is the monthly report.

Q. Monthly report of what, Mrs. Kennedy?

A. Of the rental.

Q. Are those reports kept in the regular files of business at the Western Arms Apartment?

A. They are.

Q. Is that in your handwriting, Mrs. Kennedy?

A. This is.

Q. Those reports are made up at or about the same time as the transactions reflected thereon?

A. In this report, it is made at the end of each month off the ledger.

Q. In your capacity as the manager of Western Arms, you kept these reports in your custody there at the [361-D] apartment?

A. I kept a copy of these. These were not a duplicate.

Mr. Whyte: I am going to offer this first set of white sheets, all of them being for the period of 10-30-53 to 11-30-53, in evidence as Receiver's Exhibit next in order.

The Court: Received.

The Clerk: Receiver's Exhibit 1.

(The documents referred to were marked as Receiver's Exhibit 1 and were received in evidence.)

TENANT'S NAME	Ac. No.	Remit. Rate	From	To and Incl	Rent	Miscellaneous	Total	Post Due	Rent Schedule	Cash on Hand
Darling, John	101	90.00	11-8	12-8	90.00	X	\$		\$	Cash Received
Morgan, John	102	85.00	11-1	11-2	40.00	X	\$		\$	Cash Received
Morgan, John	103	60.00	11-1	12-1	60.00	X	\$		\$	Cash Received
Mulderig, John	104	3.00	11-16	11-17	3.00	✓	100	Debit Key	✓	
Mulderig, John	105	55.00	11-3	12-3	55.00	X				
Morgan, John	106	55.00	11-1	12-1	55.00	X				
Morgan, John	107	65.00	11-5	12-5	65.00	X				
Morgan, John	108	65.00	11-1	12-1	65.00	X				
Morgan, John	110	20.00	11-1	12-1	20.00	✓				
Morgan, John	112	40.00	11-1	12-1	40.00	✓				
Morgan, John	114	67.00	12-1	12-21	67.00	✓				
Morgan, John	115	60.00	11-20	11-28	16.00	✓	117 - 60.00			
Morgan, John	116	65.00	11-9	12-9	65.00	X				
Morgan, John	117	80.00	11-28	12-28	36.00	✓	500			
Morgan, John	118	70.00	11-1	12-1	70.00	X				
Morgan, John	119	90.00	11-17	-	-	✓	85			
Morgan, John	119	30.00	11-28	12-5	30.00	✓	500			
Morgan, John	120	67.00	11-17	12-17	67.00	✓				
Morgan, John	201	90.00	11-1	12-1	90.00	X				
Morgan, John	202	85.00	11-1	12-1	85.00	X				
Morgan, John	203	60.00	11-28	12-28	60.00	✓	500			
Morgan, John	204	22.00	11-14	11-21	22.00	✓	200			
Morgan, John	204	60.00	11-1	12-1	60.00	X				
Morgan, John	206	55.00	11-28	12-28	55.00	✓				
TOTALS		\$			\$	\$	\$	\$	\$	

Total Petty Cash Expenditures \$
 Cash Deposited Herewith : : \$
 Balance on Hand \$

Signed by

TENANT'S NAME	Acc. No.	RENTAL PERIOD		CASH RECEIVED		Amount Rent Due	Vacant Rent Schedule	CASH EXPENDITURES	
		Rental Date	From To and Incl	Rent	Miscellaneous	Total		Cash on Hand	Cash Received
Burglar	207	65	11-1	12-1	65				
Burglar	208	60	11-5	12-5	60				
Arthurston	209	65	11-23	12-23	65				
Winter	210	65	11-13	12-13	65				
Burke	211	60	11-1	12-1	60				
Metc	212	65	11-25	12-25	65				
Schoderminger	214	65	11-1	12-1	65				
Noble	215	65	11-14	12-14	65				
Anderson	216	40	10-24	11-24	40	Balance on Rent			
Anderson	216	65	11-24	12-24	65				
Barber	217	80	11-1	12-1	80				
Hempers	218	60	11-1	12-1	60				
Hankins	219	90	11-16	12-16	90				
Howard	220	67	11-9	12-9	67				
Tabor	301	85	11-1	12-1	85				
Carman	302	85	10-16						
Wood	303	65	11-16	12-16	65				
Conrad	304	40	11-4	11-8	18				
Woodman	304	80	11-17	12-1	40				
Burke	304	60	11-17	12-19	60				
Hankins	305	60	11-4	12-4	60				
Clanoh	306	65	11-1	12-1	65				
Hannert	308	60	11-1	12-1	60				
Schmidt	309	60	11-1	12-1	60				
TOTALS									
Total Petty Cash Expenditures								\$	
Cash Deposited								\$	
Balance on Hand								\$	

Receiver's Exhibit No. 1 (Continued)

Signed by

TENANT'S NAME	Ap No	Rental Rate	RENTAL PERIOD		Rent	CASH RECEIVED		Amount Paid Due	Vacant Rent Schedule	Cash on Hand
			From	To and Incl		Miscellaneous	Total			
Bonding Co	310	65.00	11-28/12-28		65.00	100.00	100.00			
Daniel	311	60.00	11-1-12-6		60.00	X				
Dallanaporn	312	65.00	11-1-12-1		65.00	X				
Magnell	314	65.00	11-1-12-1		65.00	X				
Padonano	315	60.00	11-1-12-1		60.00	X				
Bulka	316	65.00	11-1-12-1		65.00	X				
Burch	317	80.00	11-19-12-19		80.00	X				
Guruch	317	80.00	11-19-12-19		80.00	X				
Latman	318	60.00	11-13-12-13		60.00	X				
Carby	319	90.00	11-1-12-1		90.00	X				
Dragano	320	67.50	11-22-12-22		67.50	X				
Neft	401	90.00	11-1-12-1		90.00	X				
Goldens	402	85.00	11-7-12-7		85.00	X				
Lehner	403	65.00	11-9-12-9		65.00	X				
	404					X				
Colbar	405	60.00	11-25-12-25		60.00	X				
Warod	406	60.00	11-1-12-1		60.00	X				
Muniz	407	65.00	11-14-12-14		65.00	X				
Wood	408	65.00	11-1-12-1		65.00	X				
Wood	409	60.00	11-12-12-12		60.00	X				
Handerson	410	65.00	11-15-12-15		65.00	X				
Noblet	411	65.00	11-15-12-15		65.00	X				
Gentilone	412	65.00	11-1-12-1		65.00	X				
Martinez	414	15.00	11-1-12-1		15.00	X				
Smith	414	22.50	11-21-12-1		22.50	X				
TOTALS										

and Requisition for Supplies

Signed by

ony of Maude Kennedy.)

By Mr. Whyte): Directing your attention
iver's Exhibit 1, I am going to put some
s to you with regard to the number of va-
at the Western Arms Apartment Hotel as
mber 30, 1953.

calling your attention to Room 102, Apart-
o. 102, are you able to state from this report
or not that apartment was vacant as of
e of November 1953?

Vacant when?

s of November 30, 1953.

Well, I wouldn't know without looking at my

Well, there is a column on this report headed
Period"? A. That is right.

and underneath it is a column "From" and
l [361-E] column "To and incl."

hat is right.

n that rental period column for Apartment
"From" is November 1, the "To and incl."
mber 2.

does that signify, Mrs. Kennedy?

his is right here, this is when it was rented
ing).

t was rented on November 1st?

hat is right.

What happened on November 2nd?

(Testimony of Maude Kennedy.)

in order this series of sheets showing the :
from November 30, 1953, to December 31, 195

The Court: Admitted. [361-H]

The Clerk: Receiver's Exhibit 2.

(The documents referred to were m
Receiver's Exhibit 2 and were received i
dence.)

TENANT'S NAME	Apt No	RENTAL PERIOD		Rent	CASH RECEIVED		Total	Amount Paid Due	Vacant Rent Schedule	CASH REPORT	
		From	To and Incl		Miscellaneous					Cash on Hand	\$
101	101	12-8	1-8	90.00	✓	90.00	\$			Cash Received	\$
102	102	12-1	1-1	85.00	✓	85.00	clg 6.00			Total	\$
103	103	12-1	1-1	60.00	✓	60.00	5 Key 6.00				
104	104	12-23	1-6	80.00	✓	80.00	3 Key 3.00				
105	105	12-3	1-3	55.00	✓	55.00					
106	106	12-1	1-1	55.00	✓	55.00					
107	107	12-5	1-5	65.00	✓	65.00					
108	108	12-1	1-1	65.00	✓	65.00					
110	110	12-1	1-1	20.00	✓	20.00					
112	112	12-1	1-1	40.00	✓	40.00					
114	114	12-1	1-21	67.00	✓	67.00					
115	115	12-9	1-6	65.00	✓	65.00	2.00 2 Keys				
116	116	12-9	1-9	65.00	✓	65.00					
117	117	12-28	1-28	80.00	✓	80.00					
118	118	12-1	1-1	70.00	✓	70.00					
119	119	12-5	1-7	8.00	✓	8.00					
119	119	12-16	1-16	90.00	✓	90.00					
120	120	12-19	1-19	67.00	✓	67.00					
201	201	12-1	1-1	90.00	✓	90.00					
202	202	12-1	1-1	85.00	✓	85.00					
203	203	12-23	1-23	60.00	✓	60.00					
204	204	12-12	1-13	85.00	✓	85.00					
205	205	12-1	1-1	60.00	✓	60.00					
206	206	12-28	1-28	55.00	✓	55.00					
TOTALS				\$	\$	\$	\$	\$	\$		
										Total Petty Cash Expenditures	
										Cash Deposited	
										Herewith	
										Balance on Hand	

DATE	TENANT'S NAME	No.	Rate	From	To and Incl	Rent	Miscellaneous	Total	Part Due	Rent Schedule	Cash on Hand	\$
2	Lophwyger	308	\$65.00	12-28	1-28	\$65.00	5.00	29.92		\$	Cash Received	\$
	Reinhardt	309	60.00	12-1	1-1	60.00	✓				Total	\$
	Bonamin	310	65.00	12-28	1-28	65.00	✓				PETTY CASH EXPENDITURES	\$
	Garrod	311	60.00	12-6	1-6	60.00	✓				Item	Amount
	Williamson	312	65.00	12-1	1-1	65.00	✓					
	Highwell	314	65.00	12-1	1-1	65.00	✓					
	Williamson	315	60.00	12-26	12-27	30.00						
3	Williamson	315	60.00	12-30	1-30	60.00	✓	5.00	29.92		16.12	
	Williamson	316	65.00	12-1	1-1	65.00	✓					
	Williamson	318	60.00	12-13	1-13	60.00	✓					
	Early	319	90.00	12-1	1-1	90.00	✓					
	Williamson	320	67.50	12-23	1-23	67.50	✓					
	Williamson	317	80.00	12-19	1-19		✓	last Report				
	Williamson	401	90.00	12-1	1-1	90.00	✓					
	Williamson	402	85.00	12-7	1-7	85.00	✓					
	Williamson	403	65.00	12-9	1-9	65.00	✓					
31	Williamson	404										
	Williamson	405	60.00	11-25	12-25	60.00	✓					
	Williamson	405	60.00	12-25	1-25	60.00	✓					
	Williamson	406	60.00	12-1	1-1	60.00	✓					
	Williamson	406	60.00	1-1	2-1	60.00	✓					
	Williamson	407	65.00	12-14	1-14	65.00	✓					
	Williamson	408	65.00	12-1	1-1	65.00	✓					
	Williamson	409	60.00	12-12	1-12	60.00	✓					
6	Williamson	410	65.00	12-15	1-15	65.00	✓					
	TOTALS		\$			146.00	10.00	\$	\$	\$	Balance on Hand	\$
											Total Petty Cash Expenditures	\$
											Cash Deposited Herewith	\$

Signed by

TENANT'S NAME	Appt. No.	Appt. Rate	From	To and Incl.	Rent	Miscellaneous	Total	Past Due	Rent Schedule	Cash on Hand
McLarty	411	65.00	12-15	1-15	65.00					
Anthony	412	65.00	12-1	1-1	65.00					
Martinez	414	65.00	12-3	1-3	50.00	5.00				
Martinez	415	65.00	12-1	1-1	65.00					
Epifanio	416	65.00	12-6	12-13	16.00					
Martinez	416	65.00	12-23	12-30	17.00					
Barre	417	80.00	12-12	1-12	80.00					
Stewart	418	70.00	12-3	1-3	70.00					
Archelo	419	90.00	12-2	1-2	90.00					
Trine	420	67.50	12-12	1-12	67.50					
Bozette	A	50.00	12-13	1-13	50.00					
Engler	B	50.00	12-1	1-1	50.00					
Davidson					3.75					
TOTALS					685.50	5.00				
					4988.80	50.25				
										Total Petty Cash Expenditures \$ 60.00
										Cash Deposited Herewith \$ 4975.75
										Balance on Hand \$ 5035.75

Receipts and Requisition for Supplies

Signed by

to 6 Copyright 1937 Apartment Association of Los Angeles County, Inc. Dinkirk 44131

Receiver's Exhibit No. 2—(Continued)

ony of Maude Kennedy.)

By Mr. Whyte): Now, directing your attention to Receiver's Exhibit 2, I am going to put questions to you with reference to the number of vacant apartments at the Western Arms as of the end of December 1953.

I call your attention to Apartment 204, under the heading "Rental Period", from "To and incl." 12-13,—

Rented one night for \$4.00.

During the month of December?

That is right.

Apartment 304, it shows in the "Rental Period" column, "From" 12-1 "To and incl." 12-15—

to 12-15.

Excuse me. Does that correctly delineate the period during the month of December when that apartment was rented? A. That is right.

I will ask you to examine this sheet for December and see if you can tell me whether any apartments during that month were vacant at the end of the month.

As of the end of December?

That is right.

Apartment 204 was vacant. [361-I]

May I look at that with you, please?

Yes.

Apartment 204, yes.

Apartment 204 was rented for two weeks.

DATE	TENANT'S NAME	Acct No.	RENTAL PERIOD		Base Rent	CASH RECEIVED			Amount Paid Date	Vacant Rent Schedule	CASH REPORT	
			From	To and Incl		Rent	Miscellaneous	Total			Cash on Hand	\$
	Apartment	101	1/8	2/8	90.00	\$ 90.00 ✓		\$	\$		Cash Received	\$
	Hayes	102	1/1	2/1	85.00	85.00 ✓					Total	\$
	Kane	103	1/1	2/1	60.00	60.00 ✓					PETTY CASH EXPENDITURES	\$
	Hoffman	104	1/6	2/3	80.00	80.00 ✓						
	105	105	1/3	2/3	55.00	55.00 ✓	5.00	T.Y.			Item	Amount
	Kaplan	106	1/1	2/1	55.00	55.00 ✓						
	Moller	107	1/5	2/6	65.00	65.00 ✓						
	Marble	108	1/1	2/1	65.00	65.00 ✓						
	Greene	110	1/1	2/1	20.00	20.00 ✓						
	Gunnedy	112	1/1	2/1	40.00	40.00 ✓						
	Gerhard	114	1/21	2/21	67.80	67.80 ✓						
	Grigson	115	1/6	2/3	60.00	60.00 ✓						
	Wife	116	1/9	2/9	65.00	65.00 ✓						
	Edmonson	117	1/28	2/28	80.00	80.00 ✓						
	Mold	118	1/1	2/1	70.00	70.00 ✓						
	Seidler	119	1/3	2/3	90.00	39.00 ✓	7.00	46.00 Key 8/2/43				
	Edmonson	119	checked out				5.00	5.00				
	Newman	120	1/17	2/17	67.50	67.50 ✓						
	Fitch	201	1/1	2/1	90.00	90.00 ✓						
	Webb	202	1/1	2/1	85.00	85.00 ✓						
	Kochler	203	1/23	2/23	60.00	60.00 ✓						
	Seidler	204	1/16	2/13	22.00	22.00 ✓						
	Gruber	204	1/23	2/23	85.00	85.00 ✓	17.00	102.00 Key 8/2/43			Total Petty Cash Expenditures	\$
	Hogstad	205	1/1	2/1	60.00	60.00 ✓					Cash Deposited Herewith	\$
	TOTALS				\$	\$	\$	\$	\$		Balance on Hand	\$

Remarks and Requisition for Supplies

Signed by

TE	TENANT'S NAME	Ac. No.	Invoice Date	From	To and For	Rent	Miscellaneous	Total	Paid Due	Rent Schedule	Cash on Hand	\$
	Rasmussen	206	55.00	1/28	2/28	55.00		55.00			Cash Received	\$
	Ringer	207	65.00	1/1	2/1	65.00		65.00			Total	\$
	Moyle	208	60.00	1/5	2/5	60.00		60.00			PETTY CASH EXPENDITURES	\$
	Forthertone	209	65.00	1/28	2/28	65.00		65.00			Item	Amount
	Winter	210	65.00	1/28	2/28	65.00		65.00				
	Spelman	210	65.00	1/28	2/28	65.00		65.00				
	Winters	210	65.00	1/28	2/28	65.00		65.00				
	Burke	211	60.00	1/1	2/1	60.00		60.00				
	Metz	212	65.00	1/28	2/28	65.00		65.00				
	Behndinger	214	65.00	1/1	2/1	65.00		65.00				
	Wolfe	215	65.00	1/14	2/14	65.00		65.00				
	Andersson	216	65.00	1/24	2/24	65.00		65.00				
	Warner	217	80.00	2/1	3/1	80.00		80.00				
	Heimer	218	60.00	1/1	2/1	60.00		60.00				
	Thornad	219	90.00	1/1	2/1	90.00		90.00				
	Young	220	67.50	1/1	2/1	67.50		67.50				
	Clarkman	301	90.00	1/27	2/27	90.00	100 - Insurance	90.00				
	Colman	302	85.00			120.00	(In Last Report)	7500 D				
	Wood	303	65.00	1/6	2/6	65.00		65.00				
	Burke	305	60.00	1/19	2/19	60.00		60.00				
	Harvey	306	60.00	1/4	2/4	60.00		60.00				
	Olson	307	65.00	1/1	2/1	65.00		65.00				
	Schragger	308	65.00	1/28	2/28	65.00		65.00				
	Schmitt	309	60.00	1/1	2/1	60.00		60.00				
	TOTALS	304	\$			\$	\$	\$	\$	✓	Balance on Hand	\$

To 12/1 85.00
 1/1 85.00
 2/1 85.00
 195.00
 Paid 120.00
 Balance 75.00

Receipts and Requisition for Supplies

Receiver's Exhibit No. 3 - (Continued)

Signed by

TENANT'S NAME	Appt. No.	Rental Rate	RENTAL PERIOD		CASH RECEIVED			Amount Paid Due	Vacant Rent Schedule	CASH REPORT	
			From	To and Incl	Rent	Miscellaneous	Total			Cash on Hand	
										Cash Received	
Benderly	310	\$ 65.00	1/30	2/30	\$ 65.00	\$ 58	\$ 58			Total	\$
Walt	310	\$ 65.00	1/6	2/6	\$ 65.00						\$
Wagner	311	\$ 65.00	1/1	2/1	\$ 65.00						\$
Wagner	312	\$ 65.00	1/1	2/1	\$ 65.00						\$
Wagner	314	\$ 65.00	1/1	2/1	\$ 65.00						\$
Wagner	315	\$ 65.00	1/1	2/1	\$ 65.00						\$
Wagner	316	\$ 65.00	1/1	2/1	\$ 65.00						\$
Wagner	317	\$ 65.00	1/1	2/1	\$ 65.00						\$
Wagner	318	\$ 65.00	1/1	2/1	\$ 65.00						\$
Wagner	319	\$ 65.00	1/1	2/1	\$ 65.00						\$
Wagner	320	\$ 65.00	1/1	2/1	\$ 65.00						\$
Wagner	401	\$ 90.00	1/1	2/1	\$ 90.00						\$
Wagner	402	\$ 90.00	1/1	2/1	\$ 90.00						\$
Wagner	403	\$ 90.00	1/1	2/1	\$ 90.00						\$
Wagner	404	\$ 90.00	1/1	2/1	\$ 90.00						\$
Wagner	405	\$ 90.00	1/1	2/1	\$ 90.00						\$
Wagner	406	\$ 90.00	1/1	2/1	\$ 90.00						\$
Wagner	407	\$ 90.00	1/1	2/1	\$ 90.00						\$
Wagner	408	\$ 90.00	1/1	2/1	\$ 90.00						\$
Wagner	409	\$ 90.00	1/1	2/1	\$ 90.00						\$
Wagner	410	\$ 90.00	1/1	2/1	\$ 90.00						\$
Wagner	411	\$ 90.00	1/1	2/1	\$ 90.00						\$
Wagner	412	\$ 90.00	1/1	2/1	\$ 90.00						\$
TOTALS	404	\$			\$	\$	\$	\$	\$	Balance on Hand	\$

Receipts and Requisition for Supplies

Signed by

Receipts Exhibit No. 3-(Continued)

mony of Maude Kennedy.)

By Mr. Whyte): Again I am going to put questions to you concerning which apartments were vacant as of the close of January 1954. Direct your attention to Apartment No. 304

— A. No, it wasn't rented.

That wasn't rented?

That is right.

Fine.

Or it would have been on there.

And Apartment 404, are you able to state that that was rented as of the 31st of January,

That was rented for two nights.

From when to when? [363]

—24 to 1-26.

Will you examine this Exhibit 3 and tell me if any other apartments were vacant as of January 31, 1954, besides Apartment No. 304 and Apartment No. 404?

119 has—this lady didn't check in until the 1st of January. 119 was vacant.

Was 119 occupied as of January 31, 1954?

No,—yes. She came in there on the 23rd of January.

And she remained through the 31st of January.

is still there. But we always have better apartments in these three months.

(Testimony of Maude Kennedy.)

The Court: Well, it isn't responsive to the question, but it was a statement which could have been made in response to a question which could have been asked. We will let it stand.

Q. (By Mr. Whyte): Any other apartments here which you find to be vacant as of the January 1954?

A. No; three of them.

Mr. Whyte: No further questions.

Redirect Examination

Q. (By Mr. Enright): How many vacant apartments do you have now, Mrs. Kennedy? [364]

Mr. Whyte: Objected to as immaterial and irrelevant within the time of the receivership; has not been asked to do with this case.

The Court: Overruled.

Mr. Whyte: And if she knows, no foundation has been shown she is now the manager of this apartment. She is not testifying from any reports. She is testifying only from memory and no longer the manager.

The Court: Well, she was the manager until the close of business on the 15th, as I understand it, and if the place just cleared out on the 15th, there might be some evidence of the development of the condition there which, if it did go to that extent, if everyone moved, would create an inference that there had been a bad period of management immediately preceding.

mony of Maude Kennedy.)

(By Mr. Enright): Tell me, did they re-
you yet as manager today?

No. They have had two managers. They
stay. I am still there packing.

You are still there? A. Yes.

Now, how many vacancies did they have
last week or as of Saturday night, or what-
te you want to select? [365]

Well, it was around 15. And I think maybe
I don't want to say for sure.

Did you ever have that many vacancies when
chman was managing that property?

No, never.

Did you ever have that many while the Re-
was managing the property? A. No.

Whyte: Objected to as no sufficient founda-
d.

Court: She has answered no. We will let
l.

Whyte: Thank you.

(By Mr. Enright): Now, it seems as though
s a little dispute here about whether you
to Mr. Harrison at the time that refrigera-
problem arose.

Whyte: Objected to as going beyond the
examination; not within the scope of the

Court: We will allow it.

(Testimony of Maude Kennedy.)

bered it, because Miss Findeisen called me t
ernoon after Mr. Hallberg had called me and
to the Frigidaire man, and said that Mr. H
was very pleased with the way that I had h
the situation. So it was Miss Findeisen a
Mr. Harrison. [366]

Mr. Enright: Those are all the questions

Mr. Whyte: No further questions.

(Witness excused.)

Mr. Enright: May she be excused?

The Court: Yes.

Mr. Whyte: The Receiver and his attorn
their case in chief, your Honor.

Mr. Enright: I will call Mr. Richman.

FREDERICK I. RICHMAN

recalled as a witness on behalf of the defe
having been previously duly sworn, was ex
and testified further as follows:

Mr. Martin: May it please the court, m
record show I am appearing at this time
case again?

The Court: Yes. You came at the begin
today's proceedings, didn't you?

Mr. Martin: That is right.

The Court: Now, did the young man, w
been sitting here the last few days, represen
office?

Mr. Martin: That he did, your Honor. I t

mony of Frederick I. Richman.)

happening here I felt it my bounden duty to

Direct Examination

(By Mr. Enright): Have you made a study of the records of the Richman Trust and of the same, to ascertain the amount of rents received by the Trust for the four-month period, December 1, 1952, through February 28, 1953, on the one hand, as compared with the four-month period, December 1, 1953, through February 28, 1954, on the other hand?

Whyte: May I have that question read? I think you mean three months.

Enright: Three months.

(The record was read.)

(By Mr. Enright): How did they compare?

Whyte: Well now, I will object to that, as no sufficient foundation has been laid for that. The books and records are the best evidence.

Court: Sustained. You will have to lay a more sufficient foundation for it. I think it is a proper question of evidence and might be a very useful bit, but it should be a firmer foundation.

Witness: May I get the ledger?

Court: Certainly.

(By Mr. Enright): Have you had any experience in keeping books and records, Mr. Rich-

A Yes

(Testimony of Frederick I. Richman.)

Q. When did you graduate from college?

A. 1927, academic; law 1928. [368]

Q. Did you have anything to do with the books and records of the Richman Trust during the period from its formation, January 1, 1946, to December 1, 1953? A. I did.

Q. What did you have to do with them?

A. The books were set up under my direction and also Mr. Levering, a certified public accountant, and kept by my secretary, under my direction the entire period of time, up until November 1, 1953.

Q. You checked the books each and every year that you were agent for the Trust?

A. I did.

Q. Have you made an examination of the Receiver's books and records? A. I have.

Q. Are they here in the courtroom?

A. They are.

Q. By the way, does the Receiver keep a journal?

A. He certainly does. There is a journal in the books.

Q. And he has had that journal ever since January 1, 1954?

A. It shows that the journal was used up to the Receiver's books as of January 1, 1954.

Q. Has it been posted up to date? [369]

mony of Frederick I. Richman.)

in error when he stated there was no journal that right?

Whyte: Objected to as leading and sugges-

Court: Sustained.

(By Mr. Enright): What is the fact concerning the Receiver having a journal?

The Receiver's books have a journal. It would be impossible to keep a set of double entry without a journal.

Whyte: I move the last——

Court: Have you seen the Receiver's journal?

Witness: I have.

(By Mr. Enright): Is it here in the court-

A. It is.

Now, did you examine the books and records of the Receiver, to ascertain the answer to the questions I have placed before you?

I took the figures off the Receiver's Petition and Report to the Court.

That is, his formal Petition he has filed here in court? A. That is correct.

State the results of your making this comparison for those three months' period, December 1, 1953, through February [370] 28, 1953, and December 1, 1953, through February 28, 1954.

Whyte: There is still no sufficient founda-

(Testimony of Frederick I. Richman.)

The Court: What about that?

Q. (By Mr. Enright): State what the of the books was that you kept.

A. The books are in the courtroom. A ledger was kept under my supervision, while them. I have taken the figures out of the ledger of the old books of the Richman Trust, were brought here to the courtroom.

Q. Do the books reflect the gross rents, ceived by each apartment house?

Mr. Whyte: I object to that. No sufficient dation has been laid. The books are the be dence of what they reflect.

The Court: The books are here, are they

Mr. Enright: Yes, they are.

The Witness: Yes.

The Court: They may be marked for iden tion and will be available to Mr. Whyte for examination. They need not be introduced in dence. We will hear the main questions asked the foundation of the books being here and availability for use of the Receiver's attorney

The Witness: The books disclosed that f months of [371] December 1952 and January and February 1953 that the gross rentals the five apartment buildings of Richman amounted to \$97,404.58.

The Receiver's report, filed in this action

ony of Frederick I. Richman.)

ry 1954, show gross rentals from the five
ent buildings of \$93,776.24.

Court: Mr. Richman, pardon the interrup-
re you going to provide me with a summary?

Witness: I have no summary, your Honor.
is at noontime.

Court: I had better take it as you go along
ive me that answer again.

Witness: December 1952, January and Feb-
1953, \$97,404.58.

ember 1953, January and February 1954, \$93,-
to which should be added the sum of \$1,-
being February collections which should
en collected by the Receiver, but were not
l by him; were collected by the plaintiff,
0.59; making a total——

Whyte: That is objected to, that portion of
wer, as being a conclusion of the witness,
y they should have been collected by the Re-

Court: Sustained. That is a conclusion of
e. Richman. [372]

Witness: Then the \$1,290.59 should be in-
in February rents, in order to arrive at a
able figure to the ninety-seven thousand here-
given.

ng a comparative figure of operations of
e months under the Receiver of \$95,066.83.

(Testimony of Frederick I. Richman.)

er's books and records to ascertain how much rents was collected on February 26th, 27th and 28th?

A. The Receiver's books do not show any collections there, but the reports of the managers which were part of the Receiver's records, show the amounts that the managers collected and were holding themselves accountable for, for the month of February.

The Receiver's collection is \$1,290.59 less than the managers reported on the month-end reports, which were similar to the Exhibits 1, 2 and 3 of the Northern Arms, Receiver's exhibits.

Q. So the Receiver's Petition, wherein he cites, on page 12, that he estimated there to be \$2,000.00 of rents collected on those three days, February 26th, 27th and 28th, upon your checking the reports you found it to be \$1,290.59, is that correct?

A. That is correct. [373]

Q. Now, directing your attention to your former contract with the Richman Trust, to pay you ten per cent fee, did you at the time that contract was made own half the assets that became the assets of the Richman Trust?

A. I did.

Q. What had been your business experience in reference to those assets and similar properties during the previous approximate 15 to 18 years?

A. I had been operating the assets at the time the assets went into the Richman Trust, upon

ony of Frederick I. Richman.)

I have been general manager of an oil company, had my own oil production, had a general contractor's license, and had had an automobile company, and many other business ventures.

You had had experience in this Los Angeles before you became agent of this Trust, is that

Yes, I had run apartment buildings for some time and trust companies here in Los Angeles.

What was back how far?

That was about 1932, during the Depression. There was nothing to do, to run them then; merely to collect rents.

Are you also a licensed attorney at law?
No, I am.

And were at the time you entered into this trust for ten per cent? A. I was.

What was the approximate value of the assets that were transferred by you and the other trustees at the time the trust was created in November of 1945?

Whyte: I don't see the materiality of that question, your Honor.

Court: It might be. On the chance it might be, will let it in.

Isn't, you can move to strike it out.

Witness: My recollection is about \$375,-

(Testimony of Frederick I. Richman.)

A. \$1,200,000.00. You mean the net value assets?

Q. Yes. A. Yes.

Q. Now, did you pay the expenses of the aging of the properties out of your ten per cent?

A. I did. I furnished the office, telephone equipment, all stenographic and bookkeeping tax work, and paid the phone bill, paid the p

The Court: Did you pay the phone bills i of the [375] apartment houses?

The Witness: No, the phone bills for the vidual apartment houses were paid by the But for the general business of the Trust, was conducted out of my office, I paid the bill. The Trust did not pay the phone in my

All ordering and conferences with supplie all business of the Trust was, except the housekeeping as would be taken up with the gers there, conducted from my office.

The Court: The managers were also paid Trust?

The Witness: That is correct.

The Court: What about Mr. Harrison?

The Witness: Mr. Harrison was paid by r tively. He was never an employee of the Tr never was any other secretary of mine an em of the Trust. I paid the Social Security, uner ment, compensation insurance on my secretar

The Court: The books and records of the

mony of Frederick I. Richman.)

Witness: I did.

Court: Did you ever get any legal fees before the ten per cent contract fee for management?

Witness: I did not.

Court: Did you ever charge for any, when you got [376] it or not?

Witness: No.

Court: Did you ever hire any outside law-
to render legal services?

Witness: On occasions I did.

Court: In general, what was the character
of the attorneys did?

Witness: During the regime of the Office
Administration, with rent control, in en-
deavoring to obtain more income from the Trust,
which resulted in that very end, the Trust was
sued, I think it was, 27 tenants at the Fountain
Hotel. It was a rather long suit. With the consent
of the Trust, Tidwell I hired outside attorneys to repre-
sent the Trust in that case.

There was one suit filed against the Trust
for approximately eight or nine thousand dollars
in reported rent overcharges. I hired an attorney
in that matter.

As near as I can recall at this time, the amount
of the overcharges determined was \$110.00, I be-

(Testimony of Frederick I. Richman.)

Q. You rendered all legal services that were received by the Trust yourself, excepting trial?

A. Yes. [377]

Q. I guess there were some trials you took of, Municipal Court trials?

A. Unlawful detainer actions, I would take of all those matters, and things like that.

The Court: Did you have many of those?

The Witness: Had a lot of them.

Q. (By Mr. Enright): That was during control?

A. During rent control. Because you could take the courts to, if you could convince the court that a tenant was undesirable, why, you would be able to obtain a semblance of control over your buildings. And it was very desirable to prosecute those in order to obtain control of your buildings.

Q. You made an examination of the records kept by the Receiver? A. I have.

Q. In making that examination, did you incur any expense or discover any expense that the Receiver himself, incurred as a result of his coming over and being Receiver in this matter?

A. I don't know of any. He used one of the apartments at the Oliver Cromwell, rent free, and an office. He used the telephone.

There is no evidence of any charges against the receivership for telephone charges, so I imagine that they are all included [378] in the Oliver Cromwell.

mony of Frederick I. Richman.)

the Trust funds for payment of that salary. paid the Social Security, unemployment and nsation on Harrison, and also on Findeisen the Trust bank account.

Now, have you before you the Receiver's statements? A. I have.

Will you examine them and state as to what amount of money was on deposit as of 10-20 e end of each month?

The receiver commenced with the bank ac- in the Union Bank and closed that bank ac- out about the 29th of January.

Receiver also opened a bank account at the as National Bank as of December 17th. And account, according to these statements, is still

of December 10th the statement shows on de- n the Receiver's account—this is 1953—\$24,-

Whyte: What date was that, Mr. Richman?

Witness: December 10th. As of December 53, in the Union Bank \$24,462.09.

as of December 22, 1953, in the Citizens \$3,035.04.

of the end of December, in the Union Bank 67, [379] and in the Citizens Bank as of the December \$7,940.04.

of January 11th, in the Union Bank \$1,275.17

(Testimony of Frederick I. Richman.)

As of January 20th, in the Citizens Bank 201.81.

As of the end of January, in the Union \$250.00.

At the end of January, in the Citizens Bank 224.61.

As of February 10th, Union Bank, \$250.00
izens Bank, \$29,788.31.

As of February 20th, Union Bank account closed by that time, and the Citizens Bank 626.26.

As of February 26th, 1954, in the Citizens \$31,934.10.

Q. (By Mr. Enright): Based on your experience in operating these properties, the period through 1953, was there ample cash on deposit to operate with?

Mr. Whyte: Objected to as calling for a conclusion of the witness, your Honor.

The Court: Overruled.

The Witness: Outside of the occasion when Villa Carlotta had been sold, I never had an account like that to operate the Trust with.

The Court: Was your second installment of taxes paid on any of these properties at the time the Receiver ended his duties?

The Witness: I paid the entire year installment of taxes [380] on two of the properties in November of 1953, before the Receiver took over.

mony of Frederick I. Richman.)

fourteen thousand dollars,—was what the half of taxes were—had been paid, according to records of the Receiver.

If February 28, 1954, there would have been 14 days for March and 20 days' collections in March which would have been added to the bank account, to pay the \$14,000.00 tax bill on April 20th. (By Mr. Enright): Now, directing your attention to the Oliver Cromwell payment, do you have a check there, Receiver's canceled check, I mean, for about \$2,027.00, for the payment on the Oliver Cromwell due on March 1, 1954?

I have.

Do you have checks immediately preceding and succeeding that check there before you?

You are talking about the March 1st pay-

Have you the checks of the previous payments too?

I have the checks here for January 1st, February 1st and March 1st payment on the Oliver Cromwell.

When were they cleared?

The check No. 204 to Pacific Mortgage Corporation, dated December 31, 1953, for \$2,027.25, perforation through the check marked "Paid in full." [381]

checks of the Receiver preceding, starting

(Testimony of Frederick I. Richman.)

Check 186, to Few Electric, dated December 1954, shows as having been paid January 22, 1954.

The Court: Mr. Enright, I don't want to hurry you, but just for information, how long is it going to take to present your side of this case?

Mr. Enright: Well, it is going to be awful difficult to complete it this afternoon.

The Court: I don't expect you to. It would be practically impossible, since I am going away from you have, in addition to needing the Receiver's decision decided here, you have a dispute with Mr. Martin's client. I think they should be decided together. I might be there are offsets of the Receiver's claim, nonetheless, ought to be paid by Mrs. Tidwell. These things I can't tell until we have all the evidence and possibly have had some briefing and search on it.

But I would like to finish them all in one sitting, if we can. How long do you think it will take?

An awful lot of this, it would seem, could be agreed to. I don't mean agreed as to the result, but what the evidence is. It is simple to look at the bank statements and determine when payments were made and what the amounts were. As far as it seems to me that the dates on which some of the payments [382] were made might be controlling.

Mr. Martin: If it please your Honor, if you would include me in your remarks.

r. Camusi will handle those details and he is familiar with them than I. What his situation isn't recall.

understood that that particular phase of the case had been put over to a day certain. What day certain that was I don't remember. It was to do with at that time.

Court: I don't even remember that it was a day certain. Was it, Mr. Clerk?

Martin: Mr. Camusi indicated to me there might have been a misapprehension on that, and now the decision of this, or, at least, the substance of this particular matter.

The record might be checked on that. I haven't seen those details in that sense.

Court: I know we talked about a pretrial conference between your office and Mr. Enright's. It seems to me the thing is simple enough and the pretrial conference will suffice for the trial, if we were to have the trial instead of the pretrial.

Martin: I wouldn't want to involve myself in a definite statement. Mr. Camusi would handle the details.

Now he came back to the office, after having been down [383] here, and told me, among other things, that this other phase of the matter had been put off either for pretrial or some other purpose, to a later date. I think he so informed me a week or so ago. I don't remember just when.

The Clerk: June 18th.

The Court: I see it is June 18th, the clerk informs me. Would this be practical, Mr. Enright? You are not going to be here tomorrow?

Mr. Enright: No, I have made other arrangements, your Honor. I understood you were to start your criminal matter in the morning.

The Court: I am. We can still work in time, if we are going to be free. But how about taking this matter up again? Do you think we can conclude it on a Monday? You know how Mondays are interrupted here.

Mr. Enright: Yes.

The Court: If we could complete it on a Monday day, we might take it up on June 1st, so far as the Hallberg-Whyte petitions are concerned. That will leave us until the 18th to begin consideration of the Tidwell and Richman phase of it.

Do you think that is practical, or is trying to do this sort of thing on a Monday too difficult?

Mr. Enright: My belief is that we could get the defense could present their evidence, Mr. Richman's evidence, in approximately two to two and a half hours; not more than that.

The Court: Let's try.

Mr. Enright: But I do not want to mislead the court. I consider this contractual right belongs to Lyda Tidwell and her brother Frederick Richman, as being entirely different from the Receiver's

o of them. They have a contract settling their
as to the balance of this fund.

Court: Well, let's continue the proceeding,
which we are now engaged, until Tuesday,
1st, at 11:00 o'clock.

Enright: Tuesday?

Court: Yes. May 31st is a holiday, so Tues-
day 1st, at 11:00.

Martin: At 11:00, sir?

Court: Yes. That Tuesday will be our law
motion day, for that week, and I will be busy
short matters for an hour.

I'm sorry to interrupt this just as you were
going well into this group of figures, but we have
no session, either in chambers or here, since
9:00 this morning, and I want to close. [385]
The court will stand adjourned.

(Whereupon, at 4:05 o'clock p.m., Monday,
May 17, 1954, an adjournment was taken until
Monday, June 7, 1954, at 11:00 o'clock a.m.)

* * [386]

Whyte: The court please, I should like to
ask the court's indulgence to reopen the case in
order for the Receiver and his attorneys, and put
briefly a witness with respect to the reasonable
amount of the attorneys' fee in connection with the
case of the Receiver.

It was taken by surprise at the testimony of Mr.
Horn which was given here at the last session

defense to the objections and participating in the hearing.

So with the court's permission, if it may be granted, please, I would like to call briefly Mr. Paul Fussell of the firm of O'Melveny & Myers, to testify with respect to the reasonable value of those

The Court: Of course, the court can judge the value of attorneys' fee, even without any witness. I don't recall that you had any expert testimony on this field, apparently relying on the court's application of the pertinent rules, [388] and the fact that Enright produced a witness.

Do you have any objection to our hearing Mr. Fussell, Mr. Enright?

Mr. Enright: No.

The Court: All right. The motion is granted. We will reopen.

Mr. Whyte: Mr. Fussell, will you take the stand, please?

PAUL FUSSELL

called as a witness on behalf of the Receiver, having been first duly sworn, was examined and testified as follows:

The Clerk: Please be seated.

Your full name, sir?

The Witness: Paul Fussell.

Direct Examination

Q. (By Mr. Whyte): Are you an attorney, Mr. Fussell?

A. Yes, I am.

mony of Paul Fussell.)

For how long have you practiced law consistently in this State?

Since the early part of 1921; about 33 years.

The firm of O'Melveny & Myers, how large is that, sir?

Well, it is a firm of about 60 attorneys, including the partners and those who are associated with the firm. [389]

Are you the senior partner of the corporation management of that firm? A. Yes.

Would you please tell the court what experience, if any, you have had with receiverships of trustees in possession of apartment houses and buildings, properties of that type?

Well, I think that during the '30's in particular that I represented trustees in possession of approximately 30 buildings in Southern California, mostly in Los Angeles, some being office buildings, hotels, and some apartment houses. I think apartment houses were the most numerous of the three classes.

Where were those apartment houses located, Mr. Fussell?

Well, the Los Angeles apartment houses were located largely in the western part of Los Angeles, Hollywood, such apartment houses as the Arcady Apartment House, 2424 Wilshire Boulevard, and

(Testimony of Paul Fussell.)

Q. Mr. Fussell, I will ask you to please answer the following facts:

Assume that John Whyte, the attorney for the Receiver herein, has been engaged in the practice of law in [390] Los Angeles, California, for a period of 12 to 13 years;

That the receivership in this matter continued for a period of three months, that is to say, from December 1, 1953, until February 28, 1954;

That following the expiration of the receivership the attorney, Mr. Whyte, prepared a report for the Receiver and petition for fees, as well as a petition for fees on his own behalf, as attorney for the Receiver;

Following the filing of those reports and petitions with the court there was filed herein by the defendant Frederick I. Richman objections to the report of the Receiver and his petition for fees, as well as objections to the petition for fees of the attorney, wherein an attempt was made to surcharge the Receiver for sums in excess of \$8,000.00 on account of his alleged mismanagement of the estate;

Further assume that the receivership assets consisted of principally five apartment buildings, the value of which was in the neighborhood of a million and a half dollars;

And I shall further ask you to assume that in connection with the defense of the Receiver

mony of Paul Fussell.)

in 16 to 17 hours of his time in preparation of these hearings, in defending the Receiver;

the hearings have already consumed approximately [391] four full court days, with the prospect of another court day before us, and possibly additional time.

Under those circumstances, and based upon those facts, do you have an opinion as to the reasonableness of the attorneys' fees in that connection?

Enright: To which objection is made upon the ground it misstates the facts of the record, that it awards a surcharge of \$8,000.00.

We object to the accounting and ask the plain-
deffendant be charged with having received those moneys.
And, finally, we object upon the ground it misstates
the facts of record, particularly, for example,
it fails to state that the attorney in preparing
the account for the Receiver failed to comply with
the court rules in setting forth the amount.

Court: Mr. Fussell, bear in mind, in answering
the question which is before you, that the
surcharge is not intended to be applied to the Receiver,
but rather to the successful litigant in the
underlying litigation.

Whyte: May I direct the court's attention to
the objections for a moment in that connection?

Court: Well, I think the objections as filed
do not undertake to apply the surcharge against the

(Testimony of Paul Fussell.)

against Mrs. Tidwell, who is not the receiver that right?

Mr. Enright: Yes, your Honor.

The Court: So the Receiver came here with pleadings which undertook to have him surcharged but the theory of trial, which was announced early in the trial, is that the attempt to surcharge is not against the Receiver, Mr. Whyte's client, but against the prevailing litigant in Tidwell vs. Enright. Does that state it?

Mr. Whyte: Is that your position, Mr. Enright, that you are not now trying to surcharge the Receiver?

Mr. Enright: We surcharged that Receiver. We asked that it be a charge upon the funds in his hands. That is the way we pleaded it. That is the way we stated it in the inception. I am sure the Receiver understood it that way.

The Court: Well, I don't know whether he clearly understood it that way at the beginning. Mr. Enright, because I didn't. And while I have great respect for the Receiver's ability to read and understand, I doubt if, when the court understood originally you were trying to surcharge the Receiver himself, he didn't draw the same conclusion as apparently Mr. Whyte did.

But it became apparent in this trial settling the Receiver's fees that the attempt is to surcharge the fund. [2021] or, as I stated originally, to surcharge

mony of Paul Fussell.)

has it all been stated clearly?

Enright: I think so, your Honor. I would analyze the record.

Whyte: Then it is clear, Mr. Enright, that we are not attempting to surcharge the Receiver's bill here.

Enright: I intend to and seek to charge the bill personally and submit that the charge should be against the fund.

Court: Well, that means against the \$30,- which he still has in his possession.

Enright: Could I have that read?

(The record was read.)

Enright: Certainly, your Honor. I stated there is no need for this Receiver having to bring an action against the plaintiff to recover their bill, that the plaintiff has received the benefits of the fund added to the fund; rather, charged to the fund.

Court: Now, Mr. Fussell, do you remember the question?

Witness: I think the question is do I have an opinion under the state of facts as given by Mr. Whyte and as amplified by your Honor. And the answer to that question is I do have an opinion.

94]
By Mr. Whyte): What is your opinion, Mr. Fussell?

(Testimony of Paul Fussell.)

Mr. Whyte: You may cross-examine, Mr. Enright.

Cross Examination

Q. (By Mr. Enright): Would you assume, Mr. Fussell, for the purposes of the question of opinion, that the attorney for the Receiver was to advise the Receiver to collect \$785.00 of the fund, being three days' rents?

Mr. Whyte: Objected to as immaterial, Your Honor?

The Court: Overruled.

The Witness: On that assumption, and assuming that it was negligence on the part of the attorney to fail to so advise, I would think there would be a modest diminution in what would otherwise be a reasonable fee.

The Court: You assumed, in answering the question, the attorney for the Receiver had fully and correctly discharged his duty in that capacity.

The Witness: In answer to the question of the principal examination?

The Court: Yes.

The Witness: I assume he had done so within the limits of a prudent practitioner at the bar, sir. [395]

The Court: Thank you.

Q. (By Mr. Enright): Now, I stated that the fund was \$1,290.00. I should have stated that as \$1,290.00 less \$785.00. I should have stated that as \$1,290.00

I now want to ask you another question. The

mony of Paul Fussell.)

Receiver to retain in his possession \$785.00 cash, which the order he, the attorney, re-specifically directed the Receiver to retain of money.

Whyte: Again I want to register an objection on immateriality. I want to point out the a little more specifically.

Questions asked of this witness were with reference to reasonable value of the attorney's services in defending the Receiver against the objections raised to his report and petition for fees.

Court: Didn't the question go as to all the services rendered by the attorney in the administration of the receivership?

Whyte: No, it did not, your Honor. The question put to Mr. Fussell went only with reference to the fee for one defending the Receiver against the objections filed. The testimony in the record by Mr. Whyte was that for the work—was the work of the attorney advising the Receiver during the period of the receivership, that the sum of a thousand dollars per month [396] was a reasonable fee.

The question being asked of this expert is with reference to the defense of the Receiver in this court proceeding and the preparation of the report. So that any questions with regard to how the attorney may have advised the Receiver during

(Testimony of Paul Fussell.)

entitled to so much for defending the Receiver against the objections to the report.

The Court: Objection overruled.

The Witness: May I have the question read?

(The question was read.)

The Witness: I think that would affect my answer, if two factors occur. First, if the failure was stated on the part of the attorney was due to negligence or a failure to observe the standard of professional ability, which are customary in such matters, and, secondly, if it caused loss.

Q. (By Mr. Enright): Thank you, Mr. Fussell.

Now, assume further that the attorney failed to advise and did not advise the Receiver that the order of the Los Angeles Smog Control Board, which was not complied with by the Receiver, would subject the Receiver's agent, to wit, the manager of the apartment house and possibly other persons to criminal charges, to wit, a misdemeanor, and the attorney is [397] seeking extraordinary compensation for his services as attorney to the Receiver, to wit, a petition for extraordinary services and objections were filed, and we are here trying the objection.

Would that failure to advise have any bearing upon your opinion as to whether he should be compensated for presenting, and, may it please, for defending his application for fees?

Mr. Whyte: For the record, the same objection

mony of Paul Fussell.)

ed to the attorney for defending the Receiver
t the objections filed to his report.

can ask him with reference to anything the
ey may have done in connection with advis-
e Receiver during the pendency of the re-
ship.

Court: Do I understand, Mr. Whyte, the
ea of inquiry with this witness, so far as you
ncerned, is the appearance here at the time
ng the accounting in open court?

Whyte: Exactly, your Honor. Just the ap-
ce and the preparation for this hearing. That
this witness was asked to testify to.

Court: All right. The objection is sustained.

Enright: May I point out, your Honor, that
question is directed to the proposition, we
s wouldn't [398] be here hearing these ques-
f fees had the attorney performed his duties.

Court: That is a matter to go into in deter-
g the amount of fees to be allowed for the
pal services rendered.

Enright: I wish to make an offer of proof,
nough this witness on the stand, he would
that the failure of the attorney to perform
uty would affect his opinion as to the amount
s he should receive, upon a hearing as to the
t of time taken to determine fees.

Court: The question of principal litigation

(Testimony of Paul Fussell.)

Apparently, it is Mr. Whyte's position the court could determine the value of the services rendered by its own officer, and that some of the of the services rendered at a trial can perhaps be appraised by the trier of fact.

Mr. Enright: I appreciate that, your Honor, we have a pyramiding. First he asks for \$3,000.00 plus extraordinary fees. And then he asks for compensation for the time to hear whether \$3,000.00 plus extraordinary is reasonable.

Mr. Whyte: You are mistaken. I am not asking for any compensation for the time I have spent up here in [399] defending my own case. I am asking Mr. Fussell for his opinion as to my compensation for defending my client, the Receiver, who was appointed as an officer of this court, whose report is under attack. That is what I am asking for compensation for.

The Court: That is what I understood was sustained your objection.

Q. (By Mr. Enright): Now, Mr. Fussell, assume that the attorney for the Receiver failed to allege in the petition what fees the Receiver sought for his services, in violation of the rules of this court, to specify the amount of fees the Receiver sought for his services. Would that affect your opinion?

The Court: I will have to take the response

mony of Paul Fussell.)

' and he asked whether he had to specify or
or to leave it to the discretion of the court.

at at the time—perhaps not having had that
given too much home in my consideration—
asking for reasonable fees and leaving it to the
to determine what they should be upon hear-
evidence was the better practice. And rightly
ngly, I told him I would accept the report in
rm.

think if a lawyer goes to the judge for con-
[400] a matter, and the court gives it, that
malpractice.

Enright: I did not so consider it to be mal-
. I did consider it to be——

Court: It is not deviation from the reason-
udent representation of your client.

Enright: I desire to offer evidence that it
variance from reasonable prudent presenta-
that was the purpose of my inquiry.

attorney had failed to use reasonable pru-
n presenting the petition. He should have
the court of the rule and the reason of the
and the research there available so the court
ave been informed when it made its order.

Court: Well, perhaps I should have kept my
the appellate court as well as on this court.

Enright: Well, I don't know what the ap-
has to do with this case. Is that a ruling?

(Testimony of Paul Fussell.)

The Witness: As I understand the question, the answer would be, in light of the additional circumstances stated by the judge, I should not deem it a failure to specify an amount in the petition for any reason to affect the amount which I stated in my principal answer.

Q. (By Mr. Enright): Now, will you further assume, for [401] the purpose of your answer as given, that Mr. Whyte, the attorney, failed to communicate with the attorney for the defendant in taking that matter up with the court.

Do you consider that should be considered as a factor which would that affect your judgment as to his fault?

A. That would not, sir, no.

Q. It would not? A. No.

Q. Now, in addition to the \$785.00 and \$1,000.00, there was a third item of two thousand approximately twenty-nine dollars.

Will you assume that the \$2,029.00 was evidenced by a check drawn on the 27th of February, 1954, the day after the attorney for the Receiver had received a copy of the order of the court dated February 26th, and that the \$2,029.00 was not received by the payee until after March 1st, and that the payment of the \$2,029.00 by the Receiver was contrary to the order of the court on February 26, 1954;

And further assume that the attorney failed to advise his client, the Receiver,

mony of Paul Fussell.)

Whyte: Again may I enter an objection to the question. It calls for evidence which is immaterial. It calls for evidence with reference to whether or not the attorney performed his duties in connection with advising the Receiver [402] during the receivership.

Q. Now, the reasonable value of his fee, in that connection, it might have some pertinency. Where this testimony is limited to the reasonable value of the attorney's services in defending the Receiver against the objections filed to his report, I submit that is material.

Court: Sustained.

Enright: I offer to prove through this witness that the circumstances as stated in the question would affect and decrease the amount of the claim payable.

By Mr. Enright): Will you further assume the fact, that in addition to the \$785.00 and \$1,290.00 and \$2,029.00, the \$3,000.00, a claim for services rendered before the Receiver was appointed, which claim the Receiver states in his accounting as being an account payable, but which the Receiver did not pay, and which \$3,000.00 plus \$1,290.00, making five plus the \$1,290.00, making \$2,580.00, plus the \$785.00, constituting less than \$3,365.00 is the so-called \$8,000.00 for which the Receiver says he is defending the Receiver, would

(Testimony of Paul Fussell.)

Mr. Whyte: Objected to again as immaterial. The question is highly uncertain.

The Court: Sustained. [403]

Mr. Enright: May I point out, your Honor, that they claim—the question asked of this witness is that he is defending a Receiver against a surcharge of \$8,000.00. He gave an opinion here it is \$1,000.00. There is no surcharge involved in the \$3,000.00. They acknowledged it as an accountable.

The Court: What it comes down to is this: Is it asked his opinion of the value of time spent in drawing a pleading and trying a case. Every case has its merits and every case has its demerits. Whether there can be any allowance for it or not depends on circumstances outside of the direct testimony of this witness. But we have to limit the examination to the question inquired into—direct.

We also have to apply an inquiry as to relevancy as to all testimony in the case after it is submitted regardless of what the ruling might be at the time that testimony is offered.

Q. (By Mr. Enright): Mr. Fussell, would your opinion of the thousand dollars be in any manner affected if you were to assume that over half of the time in court—I don't know how many of the 18 hours' preparation—have involved the failure

mony of Paul Fussell.)

No, I don't think it would be affected by any
on the part of the Receiver in those re-
[404]

You feel the attorney was entitled to a thousand dollars, is that it, for——

Yes, on the assumption that I am making,
the proceeding is being conducted in good
I feel that he is entitled to be paid for his
services, sir.

Enright: I have no further questions.

Whyte: I have just one question.

Redirect Examination

(By Mr. Whyte): Did I understand your
intention to be, Mr. Fussell, that you prescribed a
reduction from a thousand to twelve hundred dol-
lars for the services specified?

That is correct.

Whyte: I have no further questions.

(Witness excused.)

Court: Was that the extent to which you
wish to reopen your case?

Whyte: That is right.

Court: Do you want to begin now, Mr. En-

Enright: Yes, I will do my best. I will call
the witness, your Honor, back again. [405]

FREDERICK I. RICHMAN

recalled as a witness on behalf of the defense having been previously duly sworn, resume stand and testified further as follows:

Direct Examination—(Continued)

Q. (By Mr. Enright): At our adjournment Richman, I believe we were covering the sum matter of this two thousand dollars plus, the Cromwell payment.

Do you have before you the checks evidencing the payment on the previous months and on the month of March 1954? A. I have.

Q. Will you state from the checks when the payments were made the previous months?

A. Check No. 204, dated December 31, 1953, payable to Pacific Mortgage Corporation for \$2,027.25, marked in the voucher part of the "1-1-54 payment, MB 302912." And it bears perforations of having been paid by the bank on 1-18-54.

The part in the voucher part of "MB 302912" was the [406] number of the Oliver Cromwell Company with the Pacific Mortgage Company. The check was cashed.

The Court: May I have the amount of that check again?

The Witness: \$2,027.25.

Mr. Whyte: And the date, Mr. Richman?

The Witness: The date was December 31, 1953. That is the date of the check. The perforations

mony of Frederick I. Richman.)

re commencing with Check No. 185, to Col-Pest Control, dated December 31, and cleared bank on 1-20-54.

Check No. 186, dated December 31st, cleared the bank 1-22-54.

Check No. 187, dated December 31, 1953, cleared the bank 1-21-54.

Check No. 191, dated December 31, '53, cleared the bank 1-22-54.

Check No. 192, dated December 31, '53, cleared the bank 1-22-54.

Check No. 194, dated December 31, 1953, cleared the bank 1-20-54.

balance of the checks proceed through there, they were all dated December 31st, but did not clear the bank until around the 20th of January.

The check to Pacific Mortgage, being Check No. 314, was written after the December 31, 1953 and all checks had [407] been written.

With regard to the February 1, 1954 payment, Check No. 314, dated January 30, 1954, to Pacific Mortgage Corporation, \$2,027.25, marked in the lower part "2-1-54 payment," is perforated by the bank as having cleared it on 2-9-54. That check was written after the payroll checks of January period, 1954.

The checks just prior thereto and just following the payments from clearance at the bank of

(Testimony of Frederick I. Richman.)

Q. (By Mr. Enright): Now, this is the check involved, isn't it?

A. Yes. The check is dated February 27, '54, and is marked on the voucher part "3-1-54 payroll."

It shows perforation from the bank, as it had been cleared the bank on 3-4-54; the 27th of February was a Saturday and was probably mailed out and received by Pacific Mortgage on the 2nd and deposited in their bank, and by the time it came to the branch of the Citizens Bank at 3rd and Western, through the clearing house, it would be marked "Fourth, '54."

That Check 433 was written before the payroll of February 28, 1954. The checkbook shows it is a stub part, commencing with Check No. 426. The stub was dated February 28th.

Check 426 is dated February 26th; 427 check number has no date; [408] 428 check number, dated February 25th; 429 number was dated 2-28; 431 check number was dated 2-26; 432 check number was dated 2-27; 433 check number was dated 2-27. That 433 is the check in question, Pacific Mortgage Corporation. The last part of the checkbook shows payment of \$2,027.25.

Check No. 434 is dated 2-27-54. And then commencing with Check No. 435, it appears to be a payroll for the last half of February, and the last check dated 2-28-54.

The previous checks, the payroll was all written

ony of Frederick I. Richman.)

Whyte: That is all moved to be stricken as responsive to the question, pure conclusion of business.

Witness: The checks are here for your examination, to see whether the payroll numbered and the others fit in, Mr. Whyte.

Court: The motion will be denied. The court is to look to the exhibits, of course.

I don't think, in this sort of thing, we can cut oral testimony too close to the line or hold it too close to the line of technical admissibility, insofar as it gives figures and dates and so on, it has to be verified from the documentary evidence, which, of course, is controlling, and its reference to those dates and amounts and so on is to direct the court's attention to other testimony [409] which the witness usually gives, which is upon the legal issues, rather than the purely

oral. I don't mean to hold that a particular exhibit will be or will not be considered material or immaterial, when it comes to submission of the case on the merits, and I am letting certain testimony stand which might be objectionable if we were going to cut it out instead of to the checks, because it is to orient the other oral testimony.

Witness: May I ask your Honor, do you

(Testimony of Frederick I. Richman.)
checks should be or some memorandum. Perhaps
we can get it from the accounting, I don't know.

Just so we can go to some paper source and
our computing from that.

The Witness: Well then, that would be
wished in evidence Check No. 204 and these checks.

The Court: Either the checks or some
I have seen reference to these in something.
I don't know if it was an affidavit or if it was
Receiver's report, or what.

But it should be before the court in its
elementary form or by way of an admission.

Mr. Enright: I will offer in evidence
checks the witness has just read from. [41]

The Court: Received.

The Clerk: Defendants' D.

(The documents referred to were
Defendants' Exhibit D and were received
evidence.)

Q. (By Mr. Enright): The amounts of
\$27.25, evidenced by the February 27, 1954
check, was in payment of the March 1st installment
of the Oliver Cromwell loan, is that correct?

A. Yes. It so shows in the stub of the
check book and on the voucher part of the check, ac-
cording to the books, it was the payment that
was not due until March 1, 1954. The previous
payments had been made.

Q. Now I want to direct your attention

ony of Frederick I. Richman.)

the period sometime December 1st to December 4, 1953? A. Yes, I did.

Court: Mr. Enright, I would rather like to take the Oxy-Aire matter in one sitting, so we will prudently adjourn now until this afternoon. Would you say 1:45 would be convenient?

Enright: Yes.

Court: 1:45.

Whereupon, at 12:00 o'clock noon, a recess was taken until 1:45 o'clock p.m. of the same day. (r.) [411]

Los Angeles, Monday, June 7, 1954, 1:45 p.m.

Court: Proceed.

FREDERICK I. RICHMAN

as a witness on behalf of the defendants, having been previously duly sworn, resumed the examination and testified further as follows:

Direct Examination—(Continued)

By Mr. Enright): I believe, Mr. Richman, that you stated you had had a conversation with Mr. [redacted] and Mr. Whyte during the period December 1st to December 4th. Now, do you have any way of ascertaining what day it was you had that conversation?

Yes. The conversation took place December

(Testimony of Frederick I. Richman.)

Q. What was said?

A. On that occasion it was the first time the Receiver and Mr. Whyte had come in office since the appointment. I was going over current files with them at the time.

I showed them the current file on the smog situation at the Oliver Cromwell and at the Cante. And I informed them that the trust had received a notice to apply for a permit; [412] that we applied for a permit. And it had been denied on the grounds the incinerator, as it existed at that time, could not continue without some correction and that I had entered into a contract with Oxy-Aire—it wasn't called Oxy-Aire at that time—to put in a catalytic agency and the application together with the plans, had been filed, but as we had not received back the approval on it. It wasn't anything to do on that matter until the approval came back from the Air Pollution Control District.

Q. Did you later receive a document designated "Approval" or "Approved"?

A. I received back the application with the plans marked, "Approved," on them on December 7, 1953.

I immediately put the documents into another envelope and mailed them to Roy E. Hallberg, South Normandie, Los Angeles 5. He had taken

mony of Frederick I. Richman.)

When was the next time you heard any more thing concerning this Oxy-Aire contract?

About the middle of the month Mr. Manalis Oxy-Aire Company called me and wanted w if I had gotten the application back.

Whyte: Objected to as hearsay, your Honor.

By Mr. Enright): You received a telephone out the middle of what month? [413]

December.

Do not state what the substance of the phone s.

Court: The exact conversation goes out. The call was made, the fact of the call remains.

By Mr. Enright): After receiving this call he middle of December 1953, what did you o? A. I did nothing.

When was the next time that you heard any concerning the Oxy-Aire contract?

January 29, 1954.

And what occurred at that time?

I had left my office and gone home. My secre- lled me and said Mr. Whyte had been try- get in touch with me.

Then what did you do?

I tried to contact Mr.—my secretary gave message that Mr. Whyte had left there, that was a criminal complaint to be heard Feb- st in Lincoln Heights Jail and I was named

(Testimony of Frederick I. Richman.)

ona del Mar, but was unsuccessful in reaching at either place.

Q. January 29th was a Friday, is that correct?

A. That is correct. [414]

Q. Did you appear in criminal court on February 1st? A. I did.

Q. Who was present at that time concerning this matter?

A. Mr. Whyte was present, you were present, the judge was present; that is all—the judge.

Q. Was the manager of one of the houses there, too, also?

A. No, the manager was not there.

Q. What occurred in connection with this contract at that time?

A. I was charged with a criminal violation of the Public Health and Safety Code and was released on my own recognizance.

Q. What services did Mr. Whyte render, if any, as you observed, at that time?

A. None that I know of.

Q. Was there a statement made in your book at that time in the presence of Mr. Whyte?

A. There was a statement made by Mr. Ennis, my attorney, in the presence of Mr. Whyte, the judge to the effect I no longer had anything to do with the properties and that it was a matter between the Receiver and the Smog Control Dis-

mony of Frederick I. Richman.)

Did you find in it a letter prepared or pur-
to be prepared by Mr. Hallberg?

I have the letter here.

I direct your attention to a letter dated
y 22, 1954, and particularly to that portion
ertaining to drawings, or approved plans. Do
d that in there? A. I do.

Now, when examining the Oxy-Aire file, did
ertain what occurred with reference to those
gs?

Not from the file. I ascertained it with my
ation with Mr. Harrison on January 30th,
ad happened to it.

Mr. Harrison, that is the bookkeeper and
of the Receiver? A. That is correct.

State what was stated, said by the agent, Mr.
on, concerning the Oxy-Aire contract file.

Whyte: Objected to as calling for hearsay
e, your Honor, and being offered as evidence
truth of the fact which he is attempting to
rom this witness.

Court: What about it, Mr. Enright?

Enright: Mr. Harrison is the agent and em-
of the Receiver. It is not hearsay, what his
and the Receiver did. [416]

Whyte: He is not a party to this proceeding.

Court: Overruled.

Witness: After January 29th when I

(Testimony of Frederick I. Richman.)

find out what the situation was relative to criminal complaint that I was supposed to Lincoln Heights Jail on February 1st for.

The Court: Do you mean in jail?

The Witness: That is where I was told to Lincoln Heights Jail.

The Court: You weren't actually told to jail, were you?

The Witness: Yes; Lincoln Heights Jail.

The Court: Weren't you directed to the Department of the Municipal Court that meets in the building?

The Witness: That is where it turned out over there.

The Court: It wasn't in a cell, was it?

The Witness: No.

The Court: Throughout the hearing people referred to going to Lincoln Heights Jail. the other evidence on the matter it has seemed me they were merely cited to the court which convenes in the building where the jail is located.

You don't consider that you come to jail you come up here, and yet the Marshal has detention rooms in this building, and people are detention there right now.

Q. (By Mr. Enright): Did you ever appear in any court upon a criminal charge of any kind, other than this one?

A. Myself as the defense.

Q. Yes.

A. No.

ony of Frederick I. Richman.)

of the drawings on the Oxy-Aire contract approval by the Board——

asked Mr. Harrison what it was all about. Harrison stated he had just heard that after the criminal complaint and Mrs. McCon- manager at the Oliver Cromwell, also was as a defendant.

ed Harrison what happened, as I thought ing was taken care of. I told Harrison I the application, approved, and drawings d been approved by the Smog District to llberg.

Harrison said that Mr. Hallberg had received hat he had discussed the matter of the con- with Mr. Whyte and Mr. Whyte had advised llberg he was not bound by those contracts. Harrison told me that Mr. Hallberg directed call Oxy-Aire and tell them to do nothing matter. [418]

Harrison stated that just about that time nalis called him and wanted to know where ns were, and Harrison stated that he told nalis that the Receiver was not bound by tract and just to hold up everything.

requently, Mr. Harrison stated on about the of January a citation had been received for n at the Oliver Cromwell. Upon receipt of olation Mr. Hallberg had directed him, Mr.

(Testimony of Frederick I. Richman.)
told him to proceed, and Mr. Manalis said
not have the plans and specifications.

That occurred along about the 13th of Ja
as near as Mr. Harrison could recollect. An
Harrison stated that he looked in the office
approved plans and application from the
District, but could not find them.

And the next time he was able to get in
with Mr. Hallberg was when he came to th
of the Receiver at the Oliver Cromwell on J
22nd. Mr. Hallberg went through his briefca
found the application and approved plans.

That Mr. Hallberg then dictated the lett
Mr. Harrison to send to the Air Pollution C
Inc., which Mr. Hallberg signed, enclosing th
and specifications [419] and the approval of
plication to Air Pollution Control, Inc.

That Mr. Harrison stated that Mr. Hallbe
told him to call them and get them on the
in a hurry.

Mr. Harrison stated that Air Pollution C
Inc. stated that there was a shortage of a
material at that time, and they didn't quite
when they could get on the job. But they
get onto it as quickly as they could.

Mr. Harrison stated that the next thing h
about it was the filing of the criminal actio
Mrs. McConnell, the manager at the Oliver
well, was all upset about the matter.

mony of Frederick I. Richman.)

in with, the testimony of an agent is not upon his principal unless it is made during course of his employment.

There is no showing here that any conversations Mr. Harrison had with Mr. Richman, in direct violation of the order appointing the Receiver, states in so many words that the plaintiff, Tidwell and the defendant, and so forth, are enjoined from disturbing possession of the Receiver or in any manner molesting the Receiver or interfering directly or indirectly with the administration of the receivership. [420]

There was no authority, no authority in Mr. Harrison to talk with any agent of the Receiver to discuss the matter with the Receiver, without the permission of his attorney or without the permission of this court.

Court: Don't you think he could call and get information?

Whyte: I beg your pardon?

Court: Don't you think he could properly have asked for information?

Whyte: Surely, but to go behind the Receiver's back, as Mr. Richman did in this instance, to go out and talk to his agent behind his back, to interfere with his operations without his knowledge, is to me that those statements are clearly outside the scope of the agent's authority.

(Testimony of Frederick I. Richman.)

The Witness: I tried to get hold of the receiver.

Q. (By Mr. Enright): Mr. Richman.

A. And he wasn't available. I have never been charged with a crime before in my life.

Mr. Enright: I know that this is——

The Witness: Talking about my going back on somebody's back——

The Court: If you will just restrain yourself, the court will protect you. [421]

Mr. Whyte: Mr. Harrison is not here. He is not subject to any cross examination by me as to the wild statements that have been made.

Now, I submit again that is purely hearsay evidence.

The Court: I don't think going to Mr. Harrison under the circumstances, was out of order. I have the circumstance that a man has been charged for violation of a criminal law. He tries to get in touch with the Receiver. He tries to get in touch with the Receiver's attorney. He is unable to do so.

The transaction to be litigated grows out of the property, the management of the property in which the man has an interest. He is a defendant or prospective defendant in a criminal prosecution.

Doesn't he have a right to seek such information as he can and is not harassing Mr. Hallberg's interests at that time?

Mr. Whyte: Mr. Harrison was Mr. Hallberg's

mony of Frederick I. Richman.)

, are certainly not within the scope of his
ment by—he is not being paid by Mr. Hall-
go around, telling third persons about how
ng is being operated.

Richman didn't go to him and ask when the
l citation was coming up, or, "What time
o appear in court," or about matters which
ermane to the criminal [422] matter, which
come along on the following Monday morn-

Richman has been testifying here as to what
n in the past in the operation of the receiver-
a private office out there.

n I submit it is not within the scope of an
authority, to discuss those matters with out-

Court: I think legally it either isn't or we
be cutting it awfully fine, and I don't want
it awfully fine.

course, you should bear in mind that a court
e up the situation, sitting in an impartial
n as the court does, and I think there is
ntirely too much emphasis placed upon this
Control violation. Not that smog control isn't
ant and that something should have been
prevent this occurrence. But I don't think
e controlling thing in the evidence here.

Enright: In view of the objection. I would

(Testimony of Frederick I. Richman.)

The Clerk: Defendants' E in evidence.

(The document referred to was marked Defendants' Exhibit E and was received in evidence.)

DEFENDANTS' EXHIBIT E

Air Pollution Control, Inc. Jan. 22,
357 North La Brea Avenue
Los Angeles 36, California
Attention: Mr. B. Manalis

Gentlemen:

This letter will confirm Mr. Harrison's telephone conversation with you on January 15th giving me my instructions to proceed with the construction and installation of your Oxyaire Catalyst project for the incinerator at the Oliver Cromwell Apartment Hotel, 418 South Normandie Avenue, Los Angeles.

As you request, I am attaching the plans you submitted to the Air Pollution Control District and which now carry their approval for construction. The letter from the Air Pollution Control District enclosing the approved plans is committal insofar as final approval is concerned. This, Mr. Harrison also pointed out in its relation to the contract with you for completion and installation of a remedy capable of passing Air Pollution Control District standards as covered and

all be glad to have a report from you as your
on this progresses.

rs very truly,

/s/ Roy E. Hallberg,

iever of the Assets of the former Richman
rust.

nc.

(By Mr. Enright): Directing your attention
ibit B, Mr. Hallberg's memorandum, and to
te January [423] 13th:

ceived notice re: Oliver Cromwell Incinera-
xy-Aire vice president said he would handle
authorities. Urged him to get on our job. Said
gs not received. Harrison to get them au-
with letter (outlined contents for letter)."
t is at the time of the citation, the criminal
n for the smog violation?

No, I think that is the time of the violation
operation of the incinerator. The notice was
that was given January 13th, the criminal
n came through some days later, when noth-
as done, and the incinerator was still being
ed.

The drawings there referred to, there was
ne set of drawings involved in this transac-
wasn't there? A. That is correct.

So from January 13th to the 22nd they must

(Testimony of Frederick I. Richman.)

Mr. Whyte: I am going to move that answer be stricken for the purpose of making objection to the question.

The question is that between a certain period of time the plans and drawings must have been in the possession of [424] the Receiver.

Mr. Enright: I will withdraw the question. The documents speak for themselves.

Mr. Whyte: There is no basis for this gentleman testifying as to that.

Q. (By Mr. Enright): You did transmit the drawings to the Receiver on or about December 4, 1953?

A. I did.

Q. There was only one set of drawings?

A. That is correct.

Q. Now, directing your attention to Mr. Hallberg, did you have a conversation with him on December 4, 1953, concerning the subject matter of his experience in managing apartment houses?

A. I did.

Q. Can you fix the date of that conversation?

A. December 4, 1953.

Q. Where did that conversation occur?

A. In Mr. Hallberg's automobile.

Q. What was the occasion for your being in the automobile?

A. I was taking Mr. Hallberg to the various buildings and introducing him to the managers.